

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF NEW YORK

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4 JOHN GORMAN,

5 Plaintiff,

6 -against- Civil Case No. 1:14-cv-434

7 RENSSELAER COUNTY, SHERIFF JACK MAHAR,
8 ANTHONY PATRICELLI, UNDERSHERIFF PATRICK
9 RUSSO, COUNTY HUMAN RESOURCES MANAGER,
10 TOM HENDRY, COUNTY EXECUTIVE KATHLEEN JIMINO,

11 Defendants.
12 -----

13 STENOGRAPHIC MINUTES OF EXAMINATION BEFORE
14 TRIAL conducted of Plaintiff, **JOHN GORMAN**, pursuant to
15 Notice, on the 15th day of June, 2016, at the law office
16 of Patrick Sorsby, PLLC, 1568 Central Avenue, Albany, New
17 York, commencing at 10:08 a.m.; before THERESA L. KLOS,
18 Certified Shorthand Reporter, Registered Merit Reporter
19 and Notary Public within and for the State of New York.
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S T I P U L A T I O N S

IT IS HEREBY STIPULATED AND AGREED by and between
the attorneys for the respective parties hereto, that
filing, sealing and certifications are hereby waived;

IT IS FURTHER STIPULATED AND AGREED that all
objections, except as to the form of the question, shall
be reserved to the time of the trial;

IT IS FURTHER STIPULATED AND AGREED that the
within Deposition may be signed before any Notary Public
with the same force and effect as though subscribed and
sworn to before this Court.

*** *** ***

1 Thereupon

2 **JOHN GORMAN,**

3 (Being duly sworn by the Notary Public, was
4 examined and testified as follows:)

5 EXAMINATION BY COUNSEL FOR DEFENDANTS

6 BY MR. MARTIN:

7 Q. Mr. Gorman, we are going to be asking you some
8 questions about your second amended complaint and
9 if you don't understand my question, please tell
10 me. It's the same rules as last time when we
11 spoke on the 50-H.

12 I sort of want to start maybe with the
13 damages issues. And I wanted to know if you're
14 currently working.

15 A. Yes.

16 Q. Where do you work?

17 A. Beacon Health Options.

18 Q. And what do you do there?

19 A. I'm a claims processor.

20 Q. Is it a full-time job?

21 A. Yes.

22 Q. Is it salary or hourly?

23 A. It's 40 hours a week.

24 Q. Okay. Are you paid by the hour or --

1 A. By the hour.

2 Q. What's the rate?

3 A. \$12.

4 Q. Do you receive any kind of commission on sales or
5 anything like that?

6 A. No.

7 Q. How about bonus?

8 A. No.

9 Q. Do you receive any benefits of any kind?

10 A. No.

11 Q. Do you get any things like vacation even,
12 anything like that?

13 A. I earn one day a month vacation.

14 Q. How long have you been working at Beacon?

15 A. Since October 29th of 2014.

16 Q. Have you been working steadily 40 hours for them
17 since that date?

18 A. Unless I take a day off for a deposition or
19 something, yes.

20 Q. Do you have any other source of income besides
21 your work at Beacon?

22 A. I'm not sure what -- do I have another job? No.

23 Q. No other job. Do you have any other source of
24 income, like disability or insurance payment or

1 Worker's Compensation?

2 A. Occasionally, I get money from Workman's
3 Compensation, but I have not received any kind of
4 regular benefit to date.

5 Q. Did you receive unemployment insurance after you
6 left your employment with the Rensselaer County
7 Sheriff's Department?

8 A. Only for a five-week period and that was
9 unrelated to Rensselaer County Sheriff's
10 Department.

11 Q. Did you apply for unemployment after you left
12 Rensselaer County Sheriff's?

13 A. I was ineligible.

14 Q. You did not apply?

15 A. I applied. I was told I was not eligible.

16 Q. When you received the five weeks of unemployment
17 insurance after you left Rensselaer County
18 Sheriff's Department, what was that unemployment
19 insurance claim related to?

20 A. United States Post Office.

21 Q. Maybe the easiest thing to do is if you could
22 just tell me from the time that you left
23 Rensselaer County up to October 29, 2014, if you
24 were employed.

1 A. Once I was terminated by the Sheriff's Department
2 or once I found out I was being terminated or had
3 no money coming in, I applied for 127 jobs. I
4 worked at Cargill for a few weeks and due to PTSD
5 symptoms and my Workman's Comp issue from
6 Rensselaer County, I was not able to keep that
7 job.

8 I then immediately was hired at the post
9 office and, again, what they call a job failure
10 due to my disability.

11 I also then went to Express Scripts for a
12 short period of time and had the same issues.
13 And then I finally ended up at Beacon Health.

14 Q. Okay. You said Cargill for a few weeks. Do you
15 remember when you first started at Cargill?

16 A. I don't know the exact date. I would say the
17 month would be some time in July.

18 Q. Of 2014?

19 A. Yes.

20 Q. What was the date of your termination again from
21 the Rensselaer County Sheriff's Department?

22 A. I don't know the exact date. I know it was
23 October of 2014, which is why I was not eligible
24 for unemployment.

1 Q. And what was the location of the Cargill facility
2 where you were working?

3 A. Port of Albany is the best I got for you.

4 Q. How about the U.S. Post Office? Which one of
5 their facilities did you work at there?

6 A. Glenville.

7 Q. Was there an incident that led to your
8 termination from Cargill after a few weeks?

9 A. There wasn't a termination. I resigned based
10 upon the recommendation of my physician.

11 Q. How about at the Post Office?

12 A. Same thing.

13 Q. And how about at Express Scripts?

14 A. The same.

15 Q. You tried to work at each one of these places but
16 it just wasn't working?

17 A. There are multiple factors that triggered
18 additional PTSD symptoms and was unable to
19 function.

20 Q. Can you explain that to me, what the factors were
21 and what happened to result in your deciding to
22 cease employment?

23 A. All those jobs had great demands, driving a
24 forklift very fast, delivering thousands of

1 pieces of mail in a truck, entering scripts via
2 quota. All were a demand, a job demand. And it
3 was determined that I could not function while
4 taking Xanax and multiple medications without
5 having my hands shaking, you know, chest pain,
6 all of those symptoms that are related to PTSD.

7 Does that -- did I give you enough?

8 Q. Is that everything?

9 A. Pretty much.

10 Q. Okay. Is there a difference between what you're
11 doing at Beacon compared to these other jobs that
12 allows you to continue for around 18 months with
13 Beacon?

14 A. Beacon is absolutely horrific and I survive
15 Beacon by taking Xanax all day long along with my
16 other prescribed medications.

17 Given accommodation, I only have to work 40
18 hours because I can't handle more than 40 hours.
19 After 40 hours, I can't take Xanax anymore.
20 Without that medication, all my symptoms are
21 overwhelming to the point where I can't function
22 and do the job. Beacon is also quota driven.

23 Q. So there's pressure on you to perform. Is that a
24 fair statement?

1 A. Yes, not only quantity but quality. You have to
2 have a hundred percent accuracy and you have to
3 process so many claims per hour.

4 Q. Have all of your medical expenses been covered by
5 Worker's Compensation?

6 A. As far as psychologically, up to this point, yes.

7 Q. Do you have any out-of-pocket expenses that
8 you've incurred as a result of the incidents that
9 you claim in this case?

10 A. Having to do with medical as far as, you know,
11 not having an income for over a year --

12 Q. Related to medical, just related to medical.

13 A. No, short of a mileage claim.

14 Q. So you have a claim for mileage?

15 A. Outstanding benefits that were ordered to be paid
16 to me by Rensselaer County that have not been
17 paid.

18 Q. You're expecting that they'll be paid?

19 A. I really don't know what to expect. The Judge
20 ordered them to pay. Now, Meditech has not paid.
21 So whether or not that will get paid or not,
22 we'll have to wait and see but they...

23 Q. Assuming they do pay and in accordance with the
24 order, then that would cover your mileage claim?

1 A. As of May 5th of 2016, yes.

2 Q. Let's just take a quick detour on to the Worker's
3 Compensation case. My understanding was that
4 there was an appeal. I know we've gone back and
5 forth on this. Do you know what the status is
6 right now of that case?

7 A. Yes. Rensselaer County lost their appeal and
8 they're ordered to pay.

9 Q. When did that decision come down?

10 A. June 23rd of 2016. I'm sorry --

11 Q. May.

12 A. -- May 23rd, 2016. I apologize.

13 Q. Very good.

14 A. By the way, that appeal is just solely based upon
15 how much money I would get, not based upon the
16 medical condition. That issue was resolved in
17 2015.

18 Q. Is there any kind of 401-K or pension related
19 benefit at Beacon?

20 A. Not that I know of.

21 Q. We can shift gears towards your medical
22 condition. Since we last spoke, you were
23 treating with a mental health professional. The
24 name escapes me at the moment. Who is your

1 doctor?

2 A. I currently treat with two, Dr. Camperlengo who
3 is a psychiatrist and Dr. Thalmann who is a
4 psychologist, and I see them both once a month.

5 Q. How long have you been on a once per month
6 schedule with Dr. Thalmann and Dr. Camperlengo?

7 A. Pretty much, the entire three years.

8 Q. And what medications are you currently on?

9 A. I'm on Xanax. Do you need to know the dosage and
10 all of that or just the names?

11 Q. Just the names for now.

12 A. Wellbutrin XL. And right now, we're doing Prozac
13 so we're also experimenting with different
14 medications like Cymbalta, because the Prozac is
15 not working.

16 Q. How is the -- what's the dosage for the Prozac?

17 A. 60 milligrams.

18 Q. Daily?

19 A. Daily.

20 Q. And the Cymbalta experiment, how are you doing
21 that?

22 A. 60 milligrams once a day. And the Wellbutrin XL
23 is 150 per day.

24 Q. What is the Wellbutrin? I'm not familiar with

1 that one. Is that also an antianxiety --

2 A. Antidepressant anti anxiety. It also is meant to
3 counter-dict (phonetic) some of the effects of
4 the Cymbalta or Prozac depending on which one I'm
5 taking.

6 Q. Do you have any side effects from any of these?

7 A. A whole lot of side effects.

8 Q. What side effects are you experiencing?

9 A. Sleep. I do sometimes take a sleep aid.

10 Q. So you have insomnia?

11 A. I do.

12 Q. How often do you have bouts of insomnia?

13 A. Oh, every day.

14 Q. So you take a daily sleep aid?

15 A. I try not to because it's addictive.

16 Q. What sleep aid do you take?

17 A. I knew you were going to ask me that question.
18 It's a little purple pill. It's on TV. It's a
19 very common one. I'm sorry, I don't recall the
20 name at the moment.

21 Q. All right. And you sort of take that as needed
22 but you need it quite a lot. Is that a fair --

23 A. Yes. There are times when I try to take Xanax
24 because Xanax will sort of calm me enough to get

1 a couple hours of sleep.

2 Q. Maybe I should ask: What is the dose of Xanax,
3 60 milligrams and then 150 of these other ones?

4 A. .5 milligrams four times a day. I've opted not
5 to go higher because, again, that's a very
6 addictive medication.

7 Q. Do your doctors allow you within that to go two
8 times a day or just sort of do as needed on the
9 Xanax?

10 A. Dr. Camperlengo recommended I take it on a
11 regular basis. I take it every four hours
12 starting from the time I get up in the morning.
13 If I do sleep, generally, it's 5:00 o'clock, then
14 go every four hours, every three to four hours to
15 survive work.

16 Q. All right. I interrupted you on the side
17 effects. You have insomnia. What other side
18 effects have you been experiencing?

19 A. My hands still shake, chest pain. There are
20 certain sexual side effects, being unable to
21 perform which I had before, which has made it
22 worse, weight gain, fatigue.

23 Q. Had you treated with a mental health professional
24 prior to the incidents in this case?

1 A. No.

2 Q. How would you describe your health, let's start
3 with mental health, prior to the incidents in
4 this case?

5 A. No mental health issues whatsoever.

6 Q. And how about just your physical health prior to
7 the incidents in this case?

8 A. Very good physical health. No problems. Saw my
9 general practitioner once a year for a physical
10 and, you know, other than exposure to poison ivy
11 while doing yard work, you know, no issues.

12 Q. And could you describe for me how your daily
13 activities have changed as a result of the
14 incidents in the complaint?

15 A. Do you want to go back to when it first started
16 or --

17 Q. Yeah, I guess --

18 A. Can you be more specific?

19 Q. Maybe I can ask -- I like to get sort of a
20 picture in my mind of what your life was like
21 before the incidents in this case and what it is
22 now and what those differences are, the things
23 that you may have lost out on as a result of it
24 all.

1 So we're sort of -- I'm doing this backwards
2 a little bit looking at sort of your damages kind
3 of claims now.

4 How has this impacted your life, I guess,
5 would be the question?

6 A. It would probably be easier if I start with what
7 I did before.

8 Q. Sure.

9 A. Very active member of my church. I worked at
10 Rensselaer County Jail for six years and I never
11 missed a day of work. I got the \$1,500 check
12 that they gave everybody every year as a member
13 of the Masonic organization. I attended regular
14 meetings.

15 I also sing classical music, opera. I went
16 to college for it. So I often did concerts, sang
17 at church, did weddings, all kinds of things like
18 that.

19 After I experienced the initial diagnosis
20 and then leading up to the chronic PTSD, I didn't
21 leave the house. I didn't go to church. I
22 didn't go to the masons. I didn't sing for
23 years.

24 Q. The singing, if I could just stop you for one

1 second, did you do that for pay, by any chance?

2 A. I have done that for pay.

3 Q. And you're not doing that now for pay?

4 A. I have not done that since.

5 Q. In an average year, how much money would you earn
6 through your singing, would you say?

7 A. Not a lot. I mean, not enough to claim on my
8 taxes if that's what you're asking.

9 Q. All right. So we talked about being a member of
10 the church, a member of the masons, your singing,
11 and I interrupted you. Can you continue?

12 A. Activities with my children, playing out in the
13 yard, just basically doing yard work. I mean, I
14 didn't even want to do any of that.

15 I have hobbies where I paint miniature
16 knights and make dioramas and all that stuff.
17 Stopped. I haven't done that in years since I
18 got sick.

19 Q. And it would be your contention that the reason
20 you're not doing these things is because of the
21 diagnosis?

22 A. That is correct.

23 Q. Okay. Anything else besides the hobbies,
24 dioramas, household chores, singing, things we

1 talked about?

2 A. I think that's quite a bit, plus working. By the
3 way, the last year I worked at the jail, I worked
4 almost 600 hours of overtime so I made \$67,000 on
5 a basic salary of \$42,000. So I had spent a lot
6 of time working. So it's a lot to do what I just
7 described, plus work those hours.

8 Q. Was the last year that you worked at the
9 Sheriff's Department? Was that a big year for
10 overtime, though, the 600?

11 A. I don't know. What do you mean by --

12 Q. Was it a lot more than the prior five years in
13 terms of overtime?

14 A. That I did?

15 Q. Yes.

16 A. That was probably my biggest year, but it was
17 also serving as a sergeant. So it was a
18 different situation than being an officer.

19 Q. What is your prognosis right now in terms of what
20 the doctors are telling you going forward?

21 A. They really don't know. I've stayed unchanged.
22 If you're looking for am I at maximum medical
23 improvement? No, I'm not.

24 Q. The plan medically is sort of continue as we are;

1 is that a fair statement?

2 A. I would say that's fair. I would say we're
3 trying different medications to see if we can
4 relieve some of the symptoms.

5 Q. I think we talked about side effects. Have we
6 gone over everything; the hands shaking, weight
7 gain, fatigue?

8 A. Headaches.

9 Q. Anything else?

10 A. I can think of headaches.

11 Q. Are the headaches the side effects or is that
12 more the PTSD itself or maybe it doesn't matter?

13 A. I don't know. I know that I regularly every day
14 take Excedrin Migraine, you know, maximum dose
15 every single day. So whether that is a symptom
16 of the PTSD or the medication, I don't know.

17 Q. What other symptoms are you experiencing from the
18 PTSD diagnosis if we haven't talked about them
19 already?

20 A. I mean, the anxiety is what's causing the hand
21 shaking and all that. I think that's it.
22 Cottonmouth. There's all kinds of symptoms when
23 you take medications.

24 Q. We talked about your Worker's Compensation case.

1 I just want to make sure there's nothing pending
2 on the union side of things, any grievances or
3 appeals related to the union. Is that correct?

4 A. The union basically told me they wouldn't help
5 me, nothing they could do for me after the due
6 process hearing. And since I wasn't working and
7 I wasn't paying dues, then nor did they have to.

8 Q. So let's go back to sort of the start of all this
9 in October of 2013, I believe it was.

10 A. 2012.

11 Q. 2012, excuse me. Maybe I can ask you a question
12 about your relationship with Patricelli prior to
13 that time. How would you describe your
14 relationship with Sergeant Patricelli prior to
15 October of 2012?

16 A. Didn't really have a relationship with him. See
17 him occasionally at work. That was it.

18 Q. Okay. He didn't come to any Gorman family events
19 with Kim or anything of that kind?

20 A. Very rarely. Never in my house. Very rarely
21 would he come. And if he did, he'd be there for
22 an hour or less.

23 Q. At various times, I've seen documents or claims
24 that Patricelli thought that he helped you to get

1 your job. Would you agree with that
2 characterization?

3 A. No. I took the test like everybody else. I
4 interviewed, I did the background, I did the
5 psychological. I went through everything that
6 anybody else did.

7 Q. Did he do anything to help you get the job?

8 A. He even refused to give me a reference.

9 Q. How about your brother? Did he help your brother
10 get his job?

11 A. You'd have to ask my brother, but not that I know
12 of.

13 Q. And as I understand it, Sergeant Patricelli was
14 living with your sister Kim; is that correct?

15 A. Yes.

16 Q. How long did the two of them live together?

17 A. I know that they were together for 27 years. How
18 many of those years they actually lived together,
19 I don't know.

20 Q. And they had children together?

21 A. One son.

22 Q. What's the name of the son?

23 A. Zachary.

24 Q. And how old is he now?

1 A. I believe he's 16.

2 Q. Prior to October of 2012, did you have any
3 discussions with your sister Kim about Sergeant
4 Patricelli?

5 A. Can you be more specific? What do you want?

6 Q. Did she ever tell you about how their
7 relationship was going or anything about Sergeant
8 Patricelli that you can recall?

9 A. We didn't discuss their relationship. I know she
10 called me a few times when she first had her son
11 come over and help her, because he had colic and,
12 you know, how to change diapers and get used to
13 the bottle and all of that, you know, help her
14 with those kinds of things, because he refused.
15 He didn't come up in a lot of conversations.

16 Q. Okay. So October, 2012 comes along and you
17 received a -- strike that.

18 Did you ever have any discussions with your
19 sister Kim about Sergeant Patricelli having an
20 affair with someone else?

21 A. We're talking about October of 2012?

22 Q. Prior to that, I guess.

23 A. No.

24 Q. Were you aware if Patricelli was having an affair

1 with someone?

2 A. I heard rumors.

3 Q. What were the rumors that you heard?

4 A. That he was having affairs with different people.

5 Q. Were any names thrown out?

6 A. Sure. Co-workers at the jail.

7 Q. What were the names?

8 A. Wendy Vega, Dawn Drose (phonetic), all kinds of
9 names.

10 Q. Can you remember any others besides Wendy Vega
11 and Dawn Drose?

12 A. Off the top of my head, that's it.

13 Q. Did you ever tell your sister that you had heard
14 these rumors that Patricelli was having an affair
15 with someone else?

16 A. I don't really talk about rumors. You listen and
17 that's about it.

18 Q. Good idea. In October of 2012, you allege in
19 your complaint that you were at work and received
20 a phone call when you were in Sergeant Ryan -- I
21 believe it was in his office. Is that correct?

22 A. Yes.

23 Q. Why don't you just tell me in your own words what
24 happened on that day?

1 A. I was working training to be the transport
2 officer and I received a call from control that I
3 had an outside phone call. And I picked up the
4 phone and it was Patricelli. And he said, "Thank
5 your wife, thank your brother, thank you, you'll
6 pay". And I said, "I don't -- what are you
7 talking about?" And he hung up the phone.

8 Q. When you say they told you it was an outside
9 phone call, does that mean Patricelli was not at
10 the facility that day and was calling from
11 outside?

12 A. That is correct. And I wrote down the number
13 that showed up on the caller ID.

14 Q. And was that his cellphone or something?

15 A. That was his Sheriff's Department-issued
16 cellphone.

17 Q. In October of 2012, what was your work schedule?
18 What was your shift?

19 A. To the best of my knowledge, I would say I was on
20 days, because I was training with Sergeant Ryan
21 and he only worked days. He was the transport
22 sergeant, he was retiring.

23 Q. What would be the hours? Was that the B line?

24 A. That was B line. That would be 7:15 for roll

1 call to 3:30.

2 Q. Was Sergeant Patricelli working the B line as
3 well?

4 A. He was assigned to the day shift.

5 Q. And that's the same time, 7:15 --

6 A. He didn't work those hours. He worked whatever
7 hours he wanted to work in that position he held.

8 Q. And do you guys have to punch a time clock or
9 fill out a time card?

10 A. I don't know about him but I had to, yes, both.

11 Q. What was the next conversation that you had with
12 Sergeant Patricelli after this phone call in
13 Sergeant Ryan's office?

14 A. I think you might have missed a conversation.
15 Prior to that phone call, a conversation took
16 place in his office about a sheriff -- I worked
17 on the Sheriff's campaign to help him get elected
18 and there was a party afterwards. And he was
19 there with a woman, I don't know who it was. And
20 lots of rumors were around the jail at that time,
21 I mean more so than just rumors but allegations.

22 So I went to his office out of respect and
23 said, "Just so you know, this is what's going on
24 and I just want to let you know."

1 And he started yelling and screaming at me
2 that he wanted to know who was telling me those
3 things and that I need to bring them in. I said,
4 "I'm not going to get involved in that. This is
5 your business. I'm just letting you know that
6 this is going on and that you should take care of
7 it."

8 Q. When you say this is going on, you were telling
9 about the rumors that you were hearing?

10 A. Right. That's one of the only times that -- and
11 it was more allegations than rumors at that
12 point, because it was at a party that he did this
13 where there was hundreds of Sheriff's Department
14 employees.

15 Q. Right. And the woman that he was with at the
16 event?

17 A. I have no idea who it was. It was at Panichi's
18 Restaurant.

19 Q. Was she law enforcement, though?

20 A. I have no idea.

21 Q. Do you remember when this meeting took place?

22 A. Prior to the October phone call. That's all I
23 know.

24 Q. Like months from it?

1 A. Weeks prior.

2 Q. The election, I guess, would be November, right?

3 So it would be some time in the fall?

4 A. I'm guessing the timing. In my mind, that's the
5 timing.

6 Q. Okay. And this meeting took place in
7 Patricelli's office, you say?

8 A. Yes, sir.

9 Q. Was there anybody else there?

10 A. No.

11 Q. So you had the conversation with Patricelli in
12 his office regarding the rumors?

13 A. Yes.

14 Q. And he was upset about that, right?

15 A. Yes.

16 Q. Then, you got the phone call was the next
17 conversation you had with him in Ryan's office?

18 A. Yes.

19 Q. When was the next conversation?

20 A. The night before I took the sergeant's exam,
21 mid-October, where he called my cellphone. He'd
22 never called my cellphone number before. I
23 assume you want to know the details. Sorry.

24 Q. Absolutely, no.

1 A. And he begged me to help him get my sister back,
2 because he cared about her and he wanted to get
3 her back. And I said, "I don't understand how I
4 can help you with that. I have nothing to do
5 with your relationship. You need to talk to her
6 and figure out what it is you're going to do,"
7 where he yelled, he continued to yell that I'm
8 her brother and I need to help him and I should
9 care about what happens to her and my nephew.
10 And that was pretty much all I can remember of
11 that.

12 The next morning, the day of the sergeant
13 exam, I got a call from my sister just letting me
14 know that she had given him my cellphone number.

15 Q. Did she say why?

16 A. There was some fighting and arguing and threats
17 about -- you know, to her that it was my fault
18 and, you know, I'm responsible for all this and
19 he wanted to talk to me about it.

20 Q. After you received the call in Sergeant Ryan's
21 office, did you speak with Kim about the call?

22 A. What I did first was report it to supervisors.

23 Q. And that was a verbal report; correct?

24 A. That was a verbal report, because that's what

1 they requested. Sergeant Rankin requested I do a
2 verbal at this point. Sergeant Rankin or, excuse
3 me, Sergeant Ryan encouraged me to do a written
4 report.

5 I ultimately went to Sergeant Dunham who I
6 reported to a lot and he said he thought it was
7 best to just make a verbal report and see how
8 things went.

9 (Discussion off the record.)

10 BY MR. MARTIN:

11 Q. What did Sergeant Rankin do with your verbal
12 report regarding this incident?

13 A. He told me that I needed to be patient, that he
14 would look into it and discuss it with Captain
15 Smith and they would follow up with me.

16 Q. And did Sergeant Rankin ever follow up with you?

17 A. No, he did not.

18 Q. How about Sergeant Dunham? To your knowledge,
19 what did he do after you made the verbal report
20 of the October 8 incident, telephone incident?

21 A. He told me that I was provisional sergeant and
22 that if I wanted to keep my provisional sergeant
23 status that I would be quiet and just be patient.

24 Q. Eventually, you filed a written incident report;

1 is that correct?

2 A. That is correct.

3 Q. And we've already marked it in one of the
4 previous depositions as Exhibit 57. Is that the
5 incident report?

6 A. Yes, it is.

7 Q. And it has your signature on it?

8 A. Yes, it does.

9 Q. Why did you wait to file a written report of this
10 incident til February 25th, 2013?

11 A. I already answered that.

12 Q. What was the answer? You were waiting for --

13 A. I reported it verbally and they all advised me a
14 particular course of action, so that's why I
15 didn't do a written. I mean, if a sergeant tells
16 you -- gives you a suggestion and they've been
17 there 20 years, you're going to probably listen
18 to their suggestion. So that's what I did.

19 Q. So why did you do a written report at all in
20 February of 2013?

21 A. Because in February, 2013 was after the incident
22 of workplace violence and I was advised to put
23 all incidents on a piece of paper by then Chief
24 of Corrections Ruth Vibert and Captain Hal Smith,

1 which I did.

2 Q. So there's several incident reports that were
3 done around that time; is that correct?

4 A. They're all dated -- well, they're not all dated.
5 They're all similarly dated, if that's what you
6 mean.

7 Q. Yeah. And it was because of the workplace
8 violence report and Chief Vibert's suggestion
9 that --

10 A. And Captain Hal Smith's, yes. Each incident was
11 verbally reported to the individuals prior on the
12 day it happened, the day after it happened.
13 Policy dictates that if something happens, you
14 verbally report it first and then write it and
15 then in writing, if told to.

16 Q. Do you know if anyone spoke with Sergeant
17 Patricelli about the October 8th phone call
18 incident?

19 A. I have no idea.

20 Q. Do you know if Sergeant Rankin -- strike that.

21 Did you speak with Captain Smith as well
22 about the October 8th phone call?

23 A. I did.

24 Q. Was that later when you spoke to him or was it

1 soon after?

2 A. I'm pretty sure it was the same day.

3 Q. What did Captain Smith say?

4 A. That he would look into it.

5 Q. Do you know if he ever did look into it?

6 A. I have no idea.

7 Q. When was the next time that you had spoke with

8 Sergeant Patricelli after the October 8th

9 incident?

10 A. I don't have exact dates.

11 Q. This was the phone call that he made to you, the

12 number that Kim had given him?

13 A. This is my cellphone.

14 Q. Right.

15 A. After that phone call, I don't recall. I know
16 there was an incident that took place outside in
17 the parking lot where he approached me, said no
18 hard feelings, that he still needed my help to
19 get my sister back and that he wanted to work
20 things out.

21 Q. Was this at the end of shift?

22 A. I don't know if it was at the end of shift or
23 during a break, if I went out to make a phone
24 call to home or --

1 Q. What did you respond to him when he --

2 A. Same as I always did. I didn't mean to interrupt
3 you, I'm sorry. I couldn't help him, that it
4 was, you know, none of my business, that I wasn't
5 involved in his relationship, you know, things
6 like it's always best to tell the truth and
7 communicate and work through it.

8 And again, he wasn't happy with that answer
9 because he wanted me to tell her, hey, you should
10 stay with him.

11 Q. To your knowledge, were they still living
12 together at this point?

13 A. I want to say yes.

14 Q. All right. What happened next with Sergeant
15 Patricelli?

16 A. You know, after that point, within the
17 correctional facility, it was I saw him every
18 day, he would come to where I was working, what
19 unit I was working or whatever detail I was on.
20 There would be daily calls to Sergeant Rankin
21 about where I was spending too much time
22 throughout the facility.

23 Q. How do you know that there were daily calls to
24 Sergeant Rankin?

1 A. Because I was told by Jeff Rankin or Sergeant
2 Dunham would say, "Hey, Patricelli is watching
3 you." And eventually, and I don't remember what
4 time when this happened, but I was told that I
5 needed to get permission from Sergeant Rankin
6 before I went anywhere in the facility so that I
7 could be protected from Patricelli so I wasn't
8 written up for issues.

9 Q. Did Sergeant Patricelli ever write you up for
10 anything?

11 A. Not directly, but he played a role in having me
12 written up for a firearm log during my training
13 as a transport sergeant and then him and his best
14 friend, Sergeant Maselli. Typically, when
15 someone's written up, the person training them
16 and a direct supervisor who was Sergeant Rankin
17 write them up. Neither of those individuals were
18 involved in that write-up other than Sergeant
19 Rankin who issued the write-up.

20 Q. And what role did Patricelli play in the write-up
21 regarding the firearm?

22 A. You want to know my knowledge of it?

23 Q. Yes.

24 A. My knowledge of it is that Sergeant Maselli saw

1 that I hadn't signed the log. Sergeant Maselli
2 went to Patricelli. Patricelli told him to go to
3 Captain Smith and if Captain Smith didn't have me
4 written up that to come back -- Maselli is to
5 come back to see Patricelli and that Patricelli
6 would go to the Sheriff and he would see that I
7 got written up.

8 Q. And this conversation between Maselli and
9 Patricelli, you were not a witness to that;
10 correct?

11 A. No. But there is a document, there is an
12 incident report that states that. It should be
13 in one of these evidence books.

14 Q. It states that Maselli consulted with Patricelli?

15 A. Yes.

16 Q. Is it your contention that the write-up was not
17 justified?

18 A. It is my contention that per policy, the write-up
19 was not justified, because during training, an
20 individual is learning and that there's some
21 leeway given to that individual to learn the
22 processes and the policies without discipline.

23 And again, it was a verbal warning so,
24 technically, it wasn't formal discipline. But as

1 a -- during the time I served as a sergeant, I
2 followed the policy and I wouldn't write somebody
3 up. I would just have a discussion with them if
4 it was a first-time violation.

5 Q. You indicated that after the October 8th
6 telephone conversation and then the conversation
7 when your sister Kim passed along your cellphone
8 number that Sergeant Patricelli would check on
9 you excessively. Is it your testimony that he
10 wouldn't -- that he didn't check on you prior to
11 this October time frame?

12 A. That is correct.

13 Q. Okay. So there was a change in behavior where he
14 was excessively monitoring what you were doing?

15 A. That is correct. I never saw him on details. I
16 worked for years on a transport detail,
17 transition detail, key detail, fixing computers,
18 coming in out of uniform to fix computers and not
19 once had I ever seen or heard any comments that
20 he was watching me or that I should be
21 disciplined. I mean, it was to the point where
22 my logs where I go around and sign logs were
23 being checked.

24 Q. How do you know that he was checking your logs?

1 A. Because I saw him and I was also told by an
2 officer who was running a housing unit named
3 McDonald, Barry McDonald. That write-up issue is
4 Exhibit 58 where I wrote an incident of what I
5 said happened the same week that it happened.

6 Q. Other than the write-up regarding the firearm
7 issue, did Sergeant Patricelli play a role in any
8 other discipline or adverse employment action
9 taken against you at the jail?

10 A. I never received any discipline, but I was told
11 by both Ruth and Sergeant Rankin, Ruth Vibert,
12 the Chief at that time, and Sergeant Rankin that
13 he had attempted to write me up several times.

14 Q. Did they tell you what the subject matter was?

15 A. They did not discuss those details, which is when
16 they came up with the rule that I had to get
17 permission before I went anywhere in the
18 facility.

19 Q. And did Ruth and Sergeant Rankin meet with you
20 together or were these separate meetings?

21 A. They met with me together and separately, both.

22 Q. When did these meetings occur?

23 A. Exact dates, I have no idea. I know that
24 multiple times, I met with Jeff Rankin in the

1 watch commander's office about how he wasn't
2 going to let Patricelli write me up and that I
3 didn't have to worry about it and I met with Ruth
4 multiple times, Ruth Vibert, multiple times as
5 well, but I don't know the exact dates.

6 Q. Would it be in the early 2013 time frame?

7 A. It would be prior to the February workplace
8 violence incident; how about that?

9 Q. Okay. We're roughly up into the late 2012, early
10 2013 time frame and you've helped me understand
11 the calls that were made by Patricelli and then
12 the excessive monitoring as you describe it.

13 Was there anything else during that time
14 frame that Patricelli was doing to you that was
15 related to his relationship with his sister --
16 your sister? Excuse me.

17 A. I'm not sure what you're asking. You asked about
18 incidents at work and then you asked about
19 relations with my sister. I'm not sure what
20 you're asking.

21 Q. I just want to know what happened after
22 Patricelli called you on your cellphone using a
23 number that Kim had given him.

24 A. Okay.

1 Q. And you've already described that he started to
2 show up and monitor you and check your logs.

3 What else did he do?

4 A. Sure. I mean, I put a few of them in writing.
5 There's a report from November. It's called
6 "West Hall" where he ends up in the west hall
7 with -- what you have to understand about
8 Patricelli is he was not assigned in the jail.
9 He was assigned outside the jail. It was a gang
10 detail.

11 He would come to the jail to get inmates or
12 interview inmates and I'd never seen him in the
13 jail but, now, I see him on a regular basis. So
14 I'm assigned to the west hall, the west side of
15 the jail. I'm a sergeant and, now, he's
16 questioning what I'm doing in the hallway, why
17 I'm there, you know, shouldn't I be doing
18 something.

19 You know, that incident took place with
20 Chris LaFountain, there was an incident in
21 January, I don't recall the specifics but it was
22 at this point -- and we can look at the incident
23 report if you like. I think that might have been
24 the key detail where he tried to have me removed

1 from my entire key job which I had been doing for
2 years without incident. He --

3 Q. Let's stop there. Let's talk about that in more
4 detail, the key issue. What happened there?

5 A. He alleged I had a key to his office. The way
6 the keys worked is that I was in charge of
7 programming the key, it's called a watchman and
8 keys would be kept in there.

9 If a key broke or a new key needed to be
10 assigned to a particular area in the jail that an
11 officer used, the request went to Sergeant Dunham
12 and then it came to me and I did the job. And we
13 were the two people that had access to the keys.
14 I made the keys, I taught myself how to make
15 correctional keys. It's just simple as a lock
16 key all the way up to a brass \$150 -- they paid
17 \$150 a key to have them made. I made them for
18 \$10 a key. It was exciting to do that.

19 I never had access to keys without process.
20 When he claimed I had one of his keys to his
21 office and I carried it around, I got it whenever
22 I wanted it, that is 100 percent untrue. He
23 would call me and say, "I locked my keys to the
24 car and my house in my office. Could you get the

1 key to my office and get my keys and meet me
2 outside?"

3 Whether he called me or not, I didn't just
4 go get the key to his office and go into his
5 office. I would go to Sergeant Dunham or call
6 Sergeant Dunham at home if he wasn't there to say
7 this is the request, am I authorized and he would
8 authorize it and I would do it.

9 I never took a key out or made a key without
10 either paperwork that was signed by Marcelle,
11 Jack Mahar's Executive Assistant or was approved
12 by Sergeant Dunham.

13 So when I met with Ruth --

14 Q. This is in January, 2013, right?

15 A. Yeah. Her thing was that I never should have
16 been given that responsibility as an officer and
17 that I should have the entire detail taken away
18 and that they had a complaint from Patricelli and
19 her intent was that I would have that detail
20 taken away.

21 Then, I met with Sergeant Dunham who said
22 that's not going to happen, and it didn't happen.
23 So the allegation that I had unwatched access to
24 his key to his office is not true. That never

1 happened.

2 You know, each key has a combination, each
3 key has a series of numbers that tells you how to
4 make it. That was in a lock safe. When the
5 Internal Affairs lieutenant was there, I had to
6 get them from him and he would get them out of
7 the safe and give them to me. Also, the blanks
8 were there. When he left, the process changed a
9 little bit.

10 All I had to do was send an e-mail to
11 Sergeant Dunham and say I'm accessing the key
12 combination, that I'm making this key for this
13 purpose and then he would authorize it and then
14 it would be done. There's always a check and
15 balance in place.

16 Q. Did you have any face-to-face conversation with
17 Patricelli about the key issue?

18 A. No. There was no discipline. There was nothing
19 that I did wrong. All of a sudden, one day, I'm
20 being told that this detail should be taken away
21 for no reason.

22 Q. And how long did you continue to keep the key
23 detail?

24 A. Until I left --

1 Q. Okay.

2 A. -- on July 14, 2013.

3 Q. All right. What other things did Sergeant
4 Patricelli do as a result of the relationship
5 with Kim?

6 A. I'm a little confused about what you're asking.
7 Are you asking about what happened at work?

8 Q. Yes. Well, actually outside, too. I mean,
9 eventually, we get to February. We're getting up
10 to February.

11 A. I never saw this individual outside of work.

12 Q. Okay.

13 A. Just like prior, our prior conversation. I had
14 no contact or social interaction with this
15 individual outside of work. Very rare. And
16 certainly, after these things happened, I had no
17 contact. In work, he would show up in the
18 cafeteria and sit right at the table next to me
19 and stare at me the entire time. Not eat. Just
20 sit there and stare.

21 In all of the years I worked there, he never
22 ate. And I guess what we have to talk about is
23 my schedule was Thursday/Friday off. He worked
24 Monday to Friday. So my Monday through Wednesday

1 was the contact I had with him and all of these
2 incidents happened within those three days a
3 week.

4 Q. So did you go Saturday, Sunday, Monday, Tuesday,
5 Wednesday, that was your --

6 A. Yes.

7 (A short break was taken.)

8 BY MR. MARTIN:

9 Q. I think we were talking about actions that
10 Patricelli took as a result of the breakup of the
11 relationship with Kim. And the last thing I've
12 got here is that he would come into the cafeteria
13 and stare at you and that was something that he
14 had never done before. Is there anything else
15 that he did?

16 A. Sure. I mean, he would -- you know, the west
17 hall incident, I think I described it in the
18 incident report. It talks about, you know,
19 shaking his head and smiling and, you know, he
20 would go -- even in the cafeteria, he would just
21 sit there and smile and shake his head. It
22 seemed innocent to you, but to me, knowing the
23 individual and knowing the things that he did in
24 the past, knowing the threats that he already

1 made to my sister and, you know, just the
2 atmosphere that you work in in a correctional
3 facility where he had a lot of power, he was
4 unchecked. He had cameras. He'd follow me
5 around on the cameras.

6 I don't know if we previously talked about
7 that, just how Rankin would get -- I'd be in the
8 office as a sergeant after I did my rounds and I
9 didn't have any key details or I was talking to
10 Rankin about what I was going to do for the day
11 and he would get a call, it would be Patricelli,
12 and he wanted to know why I'm spending so much
13 time in the office, why I'm not doing rounds, why
14 I'm on -- you know, one time I got called by
15 Sergeant Rankin, wanted to know why I was in
16 Dunham's office for so long. I was in there for
17 an hour, what was I doing in there for an hour.

18 That was very intimidating. You know, you
19 have enough supervisors. Now, you have this guy
20 that never checked up on you before, is looking
21 for reasons to write you up, looking for reasons
22 to figure out why you are where you are. Because
23 people would be written up for being out of
24 place. And that threat was there every day.

1 Q. You indicated that you knew something about what
2 Patricelli had done in the past and things that
3 he had said to your sister. What do you mean by
4 that?

5 A. I know that when he got hired at the jail, he
6 failed his first psych exam and he actually sued
7 the jail. And this is when they put in place the
8 policy that once you fail your psych exam, you
9 can't sue the jail. You sign a document. He's
10 the reason for that document.

11 I know for a fact that he was at a party and
12 I wasn't there, I was told by people that were
13 there that this was fact, Sergeant Dunham was a
14 good friend of mine at the time, that he was at a
15 party, and he got --

16 Q. Sergeant Dunham told you this?

17 A. Yes. He got into a disagreement. There's also
18 evidence to this that's been released in this
19 case to support it. He left the party after he
20 had the disagreement with the co-worker. He went
21 home and got his gun, went back to the bar and
22 put it up to that person's head and threatened
23 them. He had his gun taken away and he was
24 suspended during the investigation.

1 So this is not a normal individual. That is
2 not something I'd ever do or ever have done. And
3 that was a fear, you know, this individual had
4 guns. He was on the ESU team where he had access
5 to, you know, semiautomatic weapons or whatever
6 he wanted. He carried a gun every day on his
7 special detail.

8 So there was to me a possibility of an
9 imminent threat from him, not to mention this was
10 a career I liked, I enjoyed, I was good at. I
11 was on the job for two years. I was put on a
12 special detail. I was given the trust of the
13 keys which wasn't given to anybody else. A
14 regular officer. I repaired and, you know, was
15 in charge of computers.

16 These aren't things that anybody else did
17 and it meant a lot to me. So my reputation and
18 my work ethic is that I don't want to be written
19 up, because that shows bad on your work, how you
20 do your job. And here, this individual was
21 attacking my career and my future. There was
22 nothing I could do about it.

23 Q. All right. So we're up to the workplace violence
24 incident in February, 2013. Can you tell me what

1 happened then?

2 A. I think you should -- I mean, prior to that, I
3 helped my sister move out. You asked about other
4 incidents I can recall. I just recalled I helped
5 her move out of her house at her request. My
6 brother and I helped her find an apartment.

7 My parents and my brother and I paid for
8 that apartment, because when she left, she had
9 nothing, she took nothing, and she was out there
10 on her own. She needed people to help her. She
11 couldn't take her son with her because she was
12 threatened by Patricelli, because after she gave
13 birth, she had postpartum depression and she
14 sought help at Samaritan Hospital for a few days
15 and he used that against her.

16 His quote was no court would give a crazy
17 woman custody of a child. And, you know, my
18 brother and I tried to encourage her to go to
19 family court and let them decide, that we felt he
20 was wrong. So we supported my sister and, you
21 know, the more I supported her, the more events
22 and the more things happened at the jail.

23 Q. At this time, was your brother still working at
24 the --

1 A. My brother worked midnights with the Sheriff's
2 Department. He was a deputy. So I had no
3 exposure to my brother at work nor did
4 Patricelli. My brother ultimately sought other
5 employment with another department because
6 Patricelli did make attempts to intervene on his
7 career as well but, fortunately, he had
8 supervisors that wouldn't allow that.

9 Q. Now, why don't you describe those attempts by
10 Patricelli to --

11 A. I don't have details. I just know what my
12 brother told me and that -- I can't recall his
13 supervisor's name at the moment. Captain Pyle is
14 his name, made a statement to my brother and I
15 one day when I was preparing keys, because I did
16 keys for the correction facility. I did keys for
17 Sergeant Mark St. Germain and all of the people
18 on the Sheriff's Department side as well.

19 And he pulled us aside one day, I think I
20 was working overtime and he told us "don't worry,
21 I'll protect Mark the best I can. He won't go
22 through what you're going through."

23 Q. And because my brother worked midnights, he
24 wasn't able to paint my sister's apartment or fix

1 as many things as he would have liked. So his
2 involvement was -- with her and setting her up in
3 her apartment was not as much as mine.

4 Q. Okay. Anything else up to the time -- up to the
5 February, 2013 time frame?

6 A. I want to say there was an incident in January,
7 but I don't recall if that was the key incident
8 or what that was. I don't recall. I don't know.
9 Do you have an incident report or anything? I
10 feel like there was an incident report in
11 January.

12 MR. SORSBY: John, are there documents?

13 MR. MARTIN: Do you want to just take a look
14 at those and see if you want to refresh your
15 recollection? (Handing the witness)

16 A. The west hall was in January, okay.

17 MR. SORSBY: Can we go off the record for a
18 moment?

19 MR. MARTIN: Sure.

20 (Discussion off the record.)

21 BY MR. MARTIN:

22 Q. So Mr. Gorman, you indicated that there was an
23 incident in the west hall and we've touched on
24 it. But was there something else that you wanted

1 to add about what happened there?

2 A. Yeah. I reviewed the incident report and I
3 didn't remember all the details and Patricelli
4 talks about how "what's the matter, you can't say
5 hello anymore?" And he was very aggressive about
6 the whole thing.

7 And you know, I said good morning but he
8 continued to be aggressive. "What's wrong?
9 What's your problem?"

10 And you know, a correctional facility, if
11 somebody is aggressive and, for me, the best
12 thing was always to de-escalate, not escalate.
13 That's what we're taught. And he was trying to
14 escalate. He was trying to bait me. And he just
15 kept saying "What's wrong with you? You can't
16 answer me? You don't like me anymore?"

17 You know, that whole rant went on, that
18 whole tirade went on with him until I finally,
19 you know, just walked away. And Chris O'Connell
20 was right there in the hallway and that is a
21 video recorded area, as I testified to before.
22 That covers that.

23 Q. Was there another incident prior to February 15,
24 2013 that you contend was in retaliation for the

1 relationship between Patricelli and your sister
2 breaking up?

3 A. The next incident I can remember was
4 approximately February 8th where I was called
5 over to Jack Mahar's office. When I got there, I
6 let Marcelle know I was there. And she said,
7 "Well, just, you know, have a seat in the hallway
8 and we'll be with you."

9 And then the door opened and Ruth Vibert
10 came out, Chief Vibert came out. I could see the
11 Sheriff was in the office. And I was brought
12 into the office and I was told to sit down. In
13 front of me was a blank incident report and the
14 Sheriff started asking me questions about what I
15 knew about what Ruth told me.

16 And I said, "I'm not sure what it is you're
17 asking."

18 "Well, Ruth told you stuff about Patricelli.
19 What did she tell you?"

20 I said, "She didn't tell me anything."

21 "She didn't tell you anything about
22 Patricelli's activities?"

23 I said, "I don't know what kinds of
24 activities you're talking about."

1 He goes, he says to me, "I need you to write
2 a statement about what Ruth told you about
3 Patricelli." And he kept leafing through this
4 three-page document. It looked like three and a
5 half or two and a half pages.

6 Q. Was it typed or handwritten?

7 A. It was typed.

8 Q. Hold on a second.

9 MR. SORSBY: Let's go off the record.

10 (Discussion off the record.)

11 MR. MARTIN: I have asked for another copy of
12 whatever it was they gave me. Everything kind of
13 got put together so that I can't figure out what
14 is responsive to that paragraph 6. It was
15 paragraph 6.

16 MR. SORSBY: They did not give you -- as far
17 as you understand, they did not give you an
18 original, they gave you the copy of it?

19 MR. MARTIN: Correct.

20 MR. SORSBY: Good. Because I don't want them
21 to be upset with you.

22 MR. MARTIN: I may have lost -- I thought
23 that was it. I asked for another one. I'm
24 supposed to go up there and get it.

1 MR. SORSBY: That would be helpful before
2 next week.

3 MR. MARTIN: Yeah, absolutely.

4 BY MR. MARTIN:

5 Q. Okay. Before we went off the record, we were
6 talking about the Sheriff repeatedly asking you
7 questions about what Ruth had told you about
8 Patricelli. Is that correct?

9 A. Yes. And I asked him if he could give me some
10 kind of idea or if I could read the document he
11 had in front of him. He said, "Well, I'm not
12 letting you read this."

13 And he said, "I want you to write a
14 statement." And as I said, there was a blank
15 incident report turned over to the lined side.
16 The one that was in front of me had lines on the
17 back of it. And he kept saying that he wanted me
18 to write a statement about what she told me about
19 his activities.

20 And I was in there for about 40 minutes and
21 he asked me pretty much the same question over
22 and over and over and over again.

23 Q. Did you ever write anything for him?

24 A. I told him I couldn't write anything for him

1 because she didn't tell me anything. The
2 conversation that I had with Ruth Vibert at any
3 time about Patricelli was involving my nephew and
4 his struggles after Patricelli was arrested, that
5 was it, and that she was sorry and that she hoped
6 my family was doing okay.

7 And I said respectfully, I appreciate her
8 apology but that I would like to see personal
9 stay personal and work business stay work
10 business and I thanked her. But I didn't write
11 him a statement because she didn't tell me
12 anything.

13 Q. And the conversation with Chief Vibert, that
14 occurred in the parking lot; is that correct?

15 A. It occurred outside of the facility, not actually
16 in the parking lot.

17 Q. Whereabouts?

18 A. Probably in the courtyard. There's an entrance
19 there and then there's an entrance in the side
20 and there's windows. One of the windows used to
21 be Patricelli's office. It was out in that
22 courtyard. What I did tell the Sheriff is that
23 Ruth never discussed anything about any affairs
24 involving Patricelli and nor would I write any

1 false statements that she did such. I was
2 dismissed and Ruth went back into the office and
3 I went back to work.

4 Q. What happened next?

5 A. Approximately February 11th, I was called over to
6 the Sheriff's Department, at which time I was
7 told that I wasn't reachable on the correctional
8 facility list, that I wouldn't be a provisional
9 sergeant anymore.

10 I told him that I hadn't seen the list yet
11 and he informed me that as soon as I was
12 reachable that I would be promoted, and I said
13 okay and that was it.

14 Q. Do you know what your score was on the civil
15 service test at that time?

16 A. Off the top of my head, I don't recall.

17 Q. Would it refresh your recollection that you got
18 an 80?

19 MR. SORSBY: Perhaps, we should have him
20 refer to evidence, Mr. Martin.

21 A. Yeah, I don't recall the exact grade.

22 Q. Okay. Sergeant Walraed, W-A-L-R-A-E-D, was
23 appointed in January?

24 A. He was a provisional sergeant and he did not have

1 the top score and he was promoted over the people
2 that had the top scores.

3 Q. Is it within the Sheriff's prerogative to do
4 that, do you know?

5 MR. SORSBY: Objection as to form.

6 A. I'm not versed enough in Civil Service Law to
7 answer that other than he's within his
8 prerogative to reach anybody who's been a
9 provisional sergeant at the time the exam came
10 out.

11 Q. Do you know if he has to pick from among the top
12 three scores?

13 A. Top three score brackets. So you have -- if you
14 have a hundred, a 90 and an 85 or you have a 95,
15 85 and 80, you can pick one person from each
16 bracket. It's not top grades. That's my
17 understanding.

18 Q. Okay. And Eric Moran and David Galusky and
19 Justin Gecewicz received permanent sergeant
20 appointments in February. Do you recall that?

21 A. I recall that the first gentleman you mentioned
22 had the highest score. The other two had 85s.
23 At that time, I was reachable. You didn't
24 mention Jason Lucey's name. His name was on

1 list. He was not an eligible employee but his
2 name was on the list til June of that year.

3 Q. Why was he not eligible?

4 A. Because he gave notice of resignation on February
5 1st, 2013. I was told I was not reachable
6 because of that individual. And if you look at
7 the evidence you guys submitted, the civil
8 service list includes his name and not my name.

9 There's plenty of practices of civil service
10 lists called raking the list. There's all kinds
11 of practices. I'm not an expert, but I do know
12 the Sheriff has the ability to recommend anybody
13 for the job and the Civil Service Commission is
14 the ultimate person that hires the individual.

15 Q. All right. Were you removed from your position
16 as a provisional sergeant in February, 2013?

17 A. On February 15th, 2013.

18 Q. What was the reason for that, to your
19 understanding?

20 A. Per the conversation we just had from the Sheriff
21 that I wasn't reachable on the civil service
22 list, I assume, in his opinion.

23 Q. Was there any sort of expiration on how long
24 people can be provisional sergeants?

1 A. I believe it's one year or until the next exam
2 comes out. The next exam has to be within one
3 year of that appointment.

4 Q. How long had you been a provisional sergeant?

5 A. About 10 months without incident. Good job.
6 Great evaluations as you've read. I would like
7 to point out that one of the individuals we
8 mentioned is the undersheriff's stepson who got
9 promoted.

10 Q. Which one?

11 A. Galusky. You're looking at the initial list
12 would have all those names. If you look at the
13 other list where they promoted Gecewicz from, it
14 does not include any of the other grades. It
15 only includes three individuals and one of those
16 individuals was not eligible to be on that list.
17 It should have included the other grades, the
18 other 80s.

19 Q. Is it your contention in this suit that you were
20 eligible to be selected for the February 15
21 sergeant appointments of which there were three?

22 A. I don't know what three there were and I'm not
23 looking at the list.

24 MR. MARTIN: We can mark that as an exhibit,

1 if you like.

2 (Defendant's Exhibit A was marked for
3 identification.)

4 BY MR. MARTIN:

5 Q. I'm showing you what we've marked as Defendant's
6 Exhibit A, and I believe that's the civil service
7 list for the February 15 appointment to sergeant,
8 and I believe we turned this over in discovery.

9 And my question was: Is it your contention
10 that you were eligible to be appointed off of
11 this list?

12 A. And my answer is that to start, to begin with,
13 Jason Lucey, a 90, this list was put out on
14 February 5th, 2013. As of February 1st, 2013, he
15 was no longer an eligible individual. You have
16 Justin Walraed scored an 85. It's not the
17 highest grade there. He was appointed January
18 17th because he was already a provisional
19 sergeant.

20 It is my contention because I was already a
21 provisional sergeant that it was well within the
22 Sheriff's right and I was reachable, because you
23 have a 95, an 85 and I got an 80 according to
24 you, which I can look at my grade on here, I got

1 an 80, that I was reachable on that list.

2 And supporting that, the reason showing that
3 the Sheriff chose somebody first off the list who
4 has an 85, not the highest grade, was a
5 provisional sergeant and was the first promoted
6 speaks to me also having that ability if he chose
7 to.

8 So I believe yes, I was reachable.

9 Q. Okay. And is it your contention in this lawsuit
10 that Sheriff Mahar selected the three individuals
11 that are indicated on Exhibit A, which would be
12 Mr. Moran, Mr. Galusky and Mr. Walraed ahead of
13 you for some improper reason?

14 A. Your question was the February 15th appointment.
15 Walraed was already promoted at that time a month
16 prior. So you asked -- there's two individuals.

17 Q. Okay.

18 A. So you're asking me if I feel that --

19 Q. If any of those three were selected over you for
20 an improper reason.

21 A. Yes, I do.

22 Q. What is the reason?

23 A. First of all, David Galusky is a relative of the
24 undersheriff. And secondly, I believe it is a

1 retaliation for my actions against Patricelli up
2 to that date.

3 Q. What actions had you taken against Patricelli up
4 to that date?

5 A. I verbally reported every single incident that he
6 did to my supervisors and since the, you know,
7 administration had weekly meetings about what was
8 going on in the facility; that, and that
9 Patricelli had written a formal complaint just
10 days prior against Ruth involving me and I
11 wouldn't write the formal -- the official
12 statement that Ruth had done something wrong,
13 that it was in retaliation that I was demoted.

14 Q. Were you aware that Justin, I'm going to spell
15 it, G-E-C-E-W-I-C-Z, was appointed sergeant on
16 March 1, 2013?

17 A. Yes, I was.

18 Q. And is it your contention in this lawsuit that
19 that was an improper appointment by the Sheriff?

20 A. Again, what was his score? He got an 85. Now,
21 you don't have a 95, you don't have a 90. Now,
22 you have an 85. He chose -- if you can show me
23 the list from that appointment, he chose from
24 what people?

1 He also told me during the meeting that as
2 soon as I was reachable, I would be promoted.
3 Now, you have a month later.

4 MR. MARTIN: All right. We can mark another
5 exhibit, I guess.

6 (Defendant's Exhibit B was marked for
7 identification.)

8 BY MR. MARTIN:

9 Q. I show you Exhibit B and I'll suggest to you that
10 that was the civil service list for the March 1
11 appointment.

12 A. So my first question is why isn't -- why is Jason
13 Lucey a month after he resigned still on the list
14 and why does my name not appear there? I think
15 that my name was intentionally left off.

16 The process that I understand by going to
17 civil service meetings and filing letters with
18 them, as you know, that the Sheriff requests the
19 individuals he wants. If he wants the 90s and
20 the 85s, then that's what they give him. There's
21 no 80s on here. Why isn't my name on this list?

22 So my contention is yes, that this promotion
23 was intentionally -- I forget the word you
24 used -- improper and that I was left off the

1 civil service list. Somebody's ineligible to be
2 on the list because they resigned from your own
3 document that you turned over to us and my name
4 doesn't even appear. So you're choosing somebody
5 from one grade, two people from the 85 bracket.
6 You're not even choosing from the top three.

7 Q. How do you respond to the fact that all of the
8 individuals selected had higher scores than you?

9 A. Being appointed to a civil service job is not
10 about highest grade. If that was the case, you
11 wouldn't do grade brackets, right? Top three
12 grades, top three individuals, top -- an 80, I
13 would be -- it would be Justin Gecewicz, Edward
14 Geran and could be John Gorman or any one of the
15 80s, but you don't have that here.

16 You have someone here named Jason Lucey
17 who's no longer an employee of the Sheriff's
18 Department. He works for Troy Fire.

19 So if you're going to call civil service a
20 fair system, just put Justin Gecewicz's name on
21 the list, say that's who you wanted and who cares
22 who else, what their scores are.

23 Q. You have not brought a claim against the civil
24 service of Rensselaer County for having erred on

1 their list?

2 A. I certainly wrote letters and presented the
3 evidence that I had at the time. But at the
4 time, I did not have the evidence that has come
5 out in this lawsuit. So Mr. Goldberger was
6 allowed to spin whatever reasons for the
7 promotions that he did.

8 Q. All right. We're up to February 15th and you
9 allege in the complaint that on that day,
10 Defendant Patricelli called the Sheriff's office
11 to obtain your home phone number?

12 A. Yes.

13 Q. How do you know that?

14 A. There is an incident report and I'm not sure if
15 it's been put into evidence or not. It was
16 provided by you, your clients, written by Ed --
17 well, it was written by Lieutenant Beaudry, sent
18 to Ruth Vibert, the chief at the time, and
19 written by one of the sergeants who answered the
20 phone.

21 And according to the written statement from
22 this individual, I can't recall his name but it
23 came from Lieutenant Beaudry that Patricelli
24 called the jail and asked for my home phone

1 number and it was given out.

2 Q. And did Patricelli call you on that day?

3 A. Yes, he did.

4 Q. All right. And where were you when you received
5 that call?

6 A. Actually, my wife answered the phone. I was in
7 the kitchen making dinner and she told me he was
8 on the phone.

9 Q. So this was in the evening?

10 A. It was -- again, I wrote it all out. So if you
11 want me to review the document, I will. But it
12 was around 6:00 o'clock.

13 Q. Okay. Do you know what phone Patricelli used to
14 call you?

15 A. I have caller ID so I wrote down the phone
16 number. I was able to retrieve it when I got
17 done with the phone call and I believe I talked
18 to my sister later the next day and she told me
19 it was his Sheriff's Department-issued cellphone.

20 Q. And you filled out a number of documents
21 regarding what was said which, from memory, what
22 did Patricelli say to you and what did you say to
23 him?

24 A. I filled out one document and that was dated

1 February 25th, 2013 of the incident report from
2 February 15th of 2013 and it involved lots of
3 details, typewritten report.

4 When I got off the phone, I wrote down
5 everything that he told me. He was also yelling
6 and upset my wife who was standing next to me and
7 could hear everything he said as well.

8 Q. Did you retain your notes?

9 A. I believe I have my notes on a yellow legal pad
10 from that.

11 Q. Could you turn those over to your attorney,
12 please?

13 MR. SORSBY: Well, hold on, Mr. Martin. Are
14 you going to just furnish a demand so that we can
15 give those documents to you?

16 MR. MARTIN: Yes.

17 A. We mentioned this in the 50-H hearing and you
18 know...

19 Q. That's true. All right.

20 MR. SORSBY: So just --

21 A. I can do a lot from memory to answer your
22 questions, but if you want me to do every
23 specific thing that's in that typewritten thing,
24 I would need to see the document.

1 Q. No, I don't need that.

2 A. I know he started off with saying, "I heard you
3 been talking shit about me. Do you know where
4 your sister is?"

5 And again, this is not in order that it's
6 typed in. "Do you know where your sister is?"

7 I said, "I really don't know."

8 He said, "I took your stripes. Now, I'm
9 going to take your job. Everything you have down
10 there is because of me and, now, I'm going to
11 take it away."

12 I'm giving you the basic things I can
13 remember from my memory. He was very angry. He
14 started talking about Peter Colantonio and how he
15 had felonies and that my sister was in Florida.

16 I said, you know, "I don't understand why
17 you're calling me. Call my sister. Why are you
18 calling me to threaten me?"

19 "I'm not threatening you."

20 I said, "You are threatening me."

21 He said, "Well, it's my job to make sure
22 that people do their job in the correctional
23 facility."

24 I said, "What are you talking about?"

1 He goes "People like Hal Smith, they don't
2 do their job. It's my job to make sure that he
3 does his job as Captain Smith." He said, "You
4 betrayed me. I'm angry. You need to pay. I'm
5 going -- you and your brother, everything you
6 have down there is because of me and I'm going to
7 take it."

8 Q. Was there something that set him off to all of a
9 sudden call you like this, do you know?

10 A. I know that my sister went to Florida to visit
11 Peter Colantonio. My sister is older than me.
12 My sister can go where she wants. She certainly
13 doesn't need my permission. But Patricelli
14 couldn't call her, because she wasn't answering
15 her phone.

16 Q. Okay.

17 A. And he called me because he could get to me to
18 get to her, because he knows that -- he knew that
19 I'd be upset enough, concerned enough to reach
20 out to her. So he was using me to get to her
21 along with all the threats.

22 Q. Did you do that?

23 A. Did I eventually talk to my sister?

24 Q. Yes.

1 A. Yes.

2 Q. What did you tell her?

3 A. All the stuff we just talked about.

4 Q. And what was her response?

5 A. That -- I'm trying to remember. That it was his
6 problem. That he created this problem. That he
7 shouldn't be bothering me, he shouldn't be
8 threatening me. That he's got to live with what
9 he did and he needs to leave me alone. That was
10 always her thing. He needs to leave me alone.
11 He needs to stop bothering me because he can't
12 have her.

13 Q. Where was the son at this time?

14 A. As I said before, he was with Patricelli, because
15 he threatened my sister because she had
16 postpartum depression and she had spent time -- a
17 short period of time at Samaritan Hospital Psych
18 to get treatment for postpartum depression.

19 When she got pregnant -- she didn't want to
20 get pregnant, he wanted a kid. And then once she
21 gave birth, he didn't want the kid. He didn't
22 want to help. So she was trying to raise a child
23 by herself. And that's one of the few times when
24 she would call for help, I would go, because you

1 need help raising a child. You can't do it by
2 yourself.

3 Q. To your knowledge, was there a family court
4 action started over custody?

5 A. No.

6 Q. Okay.

7 A. Not to my knowledge.

8 Q. And as a result of the phone call, did you file a
9 criminal complaint against Patricelli with the
10 State Police?

11 A. Well, first, I called my supervisor who was
12 Sergeant Scott Dunham.

13 Q. Did you do it that night?

14 A. That very night, as soon as I was done talking
15 and I was writing stuff down while I was dialing
16 his number. I let him know what happened and he
17 said he felt it was serious enough for me to call
18 the Chief. And he said I'll -- I said, "I don't
19 have the number."

20 He said, "I'll get the number from
21 Lieutenant Beaudry and call you back."

22 Q. And you're talking about Ruth, right, the Chief?

23 A. Yes, Chief Vibert. So he called me back a few
24 minutes later with Chief Ruth Vibert's number and

1 I called her and let her know what had happened.

2 And she said, "Well, hold on. Let me call
3 the Sheriff and get back to you."

4 Q. Did she do that?

5 A. Yes, she did.

6 Q. And what did she say?

7 A. She said that the Sheriff doesn't want to hear
8 about it, he feels it's not work related, "I
9 can't advise you what to do. You have to do
10 what's best for your family."

11 I should say in the first phone call that I
12 had talked to her, she asked me if I was okay. I
13 said no. She asked me if my family was okay. I
14 said, well, he had threatened if he had a big
15 enough fucking problem with me to come over there
16 and break my jaw.

17 I think I forgot to mention that. There
18 were physical threats involved in that phone call
19 which is what led her to call the Sheriff,
20 because she felt it was workplace violence. He
21 wanted nothing to do with it.

22 Q. Who didn't want anything to do with it?

23 A. The Sheriff per Ruth Vibert. He wanted nothing
24 to do with it; it was not work related and she

1 was not to help me.

2 Q. Ruth told you the Sheriff said not to help you?

3 A. I'm sorry?

4 Q. Ruth Vibert told you specifically that the
5 Sheriff --

6 A. Not to get involved, that it had nothing to do
7 with them and not to get involved. She said to
8 me, "John, I can't help you. I'm being told by
9 the Sheriff that I can't get involved."

10 Q. And what did you do next?

11 A. I called my brother to find out what I should do.
12 You know, I figure he has a lot of experience in
13 law enforcement and I was pretty upset, I was
14 pretty shaken.

15 He felt I should go to either call the
16 police or go to the barracks, trooper barracks,
17 because where I live, it's the Sheriff's
18 Department or it's the state troopers. And the
19 last thing I want to do is call my own department
20 to handle the situation.

21 So I also didn't want to call the police and
22 have the troopers come to my house where my young
23 children are and upset them. I want them to see
24 the police as someone they can go get help from,

1 not workplace violence issues.

2 So I waited until I could go to the state
3 trooper barracks personally and then I did. I
4 went there and I talked to the trooper about what
5 had happened.

6 Q. We've seen those documents as well in prior
7 depositions. There was a summons issued;
8 correct?

9 A. Initially, I went there and made a complaint. I
10 was still concerned at this point about being
11 promoted. I was told by Jack Mahar, the Sheriff
12 of Rensselaer County, and when -- at least in my
13 life, when I give somebody my word that as soon
14 as you're reachable, you'll be promoted, it means
15 something. I don't tell people they'll be
16 promoted and then never do it.

17 So I was still concerned that even though
18 this happened, I still wanted to have a career at
19 the Sheriff's Department. But at the same time,
20 I had to weigh the options for my family. So I
21 initially filed a complaint and then changed it
22 to a criminal complaint after I had really
23 thought about what I was going to do.

24 Q. So how much time passed between filing the

1 complaint and changing it to the criminal
2 complaint?

3 A. Less than 24 hours. I also thought when I went
4 to work the next day that somebody would be there
5 to talk about it because --

6 Q. Did that happen?

7 A. No. Because what I knew about the workplace
8 violence policy, because we're trained on a
9 yearly basis for workplace violence, sexual
10 harassment and all of that as correctional
11 officers and as Rensselaer County employees, that
12 this fell under workplace violence.

13 So I felt that somebody administration-wise
14 would be there and nobody was there. Nobody was
15 there to talk to me. Nobody was there to help.
16 There was no one to go to.

17 I was working in a correctional facility
18 where everybody knew what happened, because the
19 trooper had called the watch commander and let
20 that person know what happened and they told
21 everybody in the facility. So it was really kind
22 of a hostile situation. And I didn't know if
23 Patricelli would show up at work either.

24 Q. Did he?

1 A. Not that day, no.

2 Q. We're talking about Trooper Hock; correct?

3 A. I'm sorry?

4 Q. We're talking about Trooper Hock?

5 A. The trooper that I talked to?

6 Q. Yes.

7 A. Yes, Trooper Hock.

8 Q. She's the one that called the facility?

9 A. Yes.

10 Q. What happened next?

11 A. What happened next? I wrote the workplace
12 violence complaint.

13 Q. I forgot the date of that.

14 A. February 25th.

15 Q. The 25th, right.

16 A. I believe I met with Ruth Vibert and I don't know
17 all the details. The Monday -- that happened on
18 a Friday. I worked Saturday and Sunday. No
19 administration, no nothing, nobody came to work.
20 I mean, you just saw on the news workplace
21 violence, went to work and shot people. Who's to
22 say that broken jaw couldn't have happened?

23 We have an individual I testified to already
24 who had physical violent actions, you know, went

1 to a bar with a gun. That Monday was a holiday,
2 so there was no administration there either.

3 So when Ruth Vibert came in on that Tuesday,
4 and I don't know what the date is, I know that I
5 met with her and we talked about it and we looked
6 at the workplace violence documentation and that
7 she reached out to the Sheriff again to discuss
8 the issue.

9 And from what I can remember, she told me
10 that she was not to get involved. So feeling
11 like I had no other option but to follow
12 Rensselaer County policy, I did the workplace
13 violence complaint. And that's the reason for
14 the February 25th date.

15 Q. And you helped to support the complaint form with
16 incident reports; correct?

17 A. Hold on a second.

18 THE WITNESS: Oh, that's the meeting I'm
19 talking about. (Directing to Mr. Sorsby)

20 MR. MARTIN: Which paragraph are you looking
21 at?

22 MR. SORSBY: We're looking at paragraph 81 of
23 the complaint regarding the facts and
24 circumstances regarding the meeting with Chief

1 Vibert.

2 You want to take a quick second to take a
3 look at that?

4 A. Sure. The date was February 19th. I sat down --
5 I submitted a detailed report to the Chief. Oh,
6 I remember now. Initially, this typed report
7 that you see that's dated February 15 was just an
8 incident report of what happened. It did not
9 become a workplace violence complaint. It was an
10 informative thing for the administration to let
11 them know what had happened, what took place in
12 the phone call.

13 When nothing was done, when nobody would
14 help, that's when I did the workplace violence
15 complaint aspect of that. I was trying to act
16 not unlike the chain of command where I did
17 things verbally. I did things in writing. I did
18 things that they could handle situations or
19 de-escalate the situations without having to get
20 formally involved.

21 So when I made it a workplace violence
22 complaint, now, that was a formal complaint.
23 Does that make sense?

24 Q. Yes.

1 A. So that was my course of action, my thinking of
2 why I did what I did.

3 Q. Okay.

4 A. I was trying to be a good employee and a team
5 player but also protect my family and myself.

6 Q. I forgot if you sought a restraining order at any
7 time from the local court, the Schaghticoke
8 Court, when you went to file a criminal
9 complaint.

10 A. I did ask for what would justify getting an Order
11 of Protection. And I actually got phone calls
12 after that from District Attorney McNally at that
13 time and I was actually requested to go see him
14 at his office. I believe that was March 7th.
15 And I did go see him and I met with him.

16 But at that time, an Order of Protection
17 still had not been issued and Patricelli still
18 had not been arraigned at that time. And the
19 Order of Protection was issued after that
20 conversation and it was on his advice that he
21 felt it was warranted and that the case would be
22 pursued aggressively.

23 Q. Okay. The complaint indicates that you filed a
24 workplace complaint with Captain Hal Smith and

1 Chief Ruth Vibert?

2 A. I gave the report to --

3 Q. Was it just copies to those two and then the main
4 one went to Tom Hendry?

5 A. I gave a copy in a manila envelope. I was
6 looking to the Chief. She wasn't in yet. So I
7 sought out Captain Hal Smith and I gave it to him
8 and I said, "Can you please see that this got to
9 Chief Vibert?"

10 He opened it up. He asked what it was. I
11 said it was a workplace violence complaint. He
12 said, "I'll see that she gets it."

13 He came back 30 minutes later and said, "I
14 need an original and I want to know who else has
15 copies and what other copies exist."

16 Q. What did you tell him?

17 A. I told him I have a copy here that I'm going to
18 deliver after work to Tom Hendry and I have a
19 copy at home and I have the original on my
20 computer. So they're all copies when you type
21 them on your computer so...

22 Q. All right. What did Hendry say in response to
23 that?

24 A. He said "okay".

1 Q. About a week after you met with Ruth on that
2 Tuesday, which I believe would be the 20th of
3 February, don't quote me here --

4 A. I met with Ruth on the 19th.

5 Q. The 19th, okay. So your complaint indicates that
6 Ruth was terminated from her employment on the
7 27th, eight days later. And do you believe her
8 termination was related to your situation?

9 A. I was told by Ruth -- I was working in
10 visitation. She came in and said to me, she
11 goes, "No matter what they tell you, this is not
12 your fault." And she told me that she was being
13 terminated because she would not let the
14 workplace violence complaint go, that she was
15 fighting to get the Sheriff to read it, to look
16 at it, to do something about it; that she had met
17 with the undersheriff and he said he was going to
18 do something about it and that her termination
19 was because of that.

20 I can't testify to what I believe. I can
21 testify to what she told me.

22 (Pause in proceedings.)

23 A. It was very upsetting to --

24 Q. She had a meeting with the Sheriff when she was

1 terminated; correct?

2 A. She received a letter from what I was told.

3 Q. Okay. There was an incident that she testified
4 to regarding a request by the Sheriff to destroy
5 documents. Did she tell you about that?

6 A. She told me about it. I also read about it and
7 I've also heard recordings of Marcelle saying she
8 heard the Sheriff say it.

9 Q. All right. And what did she tell you?

10 A. She told me that she went over there with a
11 manila envelope that I gave Hal Smith with my
12 name on it clearly saying workplace violence and
13 that he yelled and screamed at her; that she
14 tried to see him multiple times; that she -- that
15 he told her to shred it, burn it, throw it out,
16 tear it up, "I don't care what you do with it, I
17 don't want to see it, I want nothing to do with
18 it, it doesn't belong in this place." And that's
19 very upsetting and very stressful.

20 Here, you're trying to do the right thing.
21 You're letting your supervisors know of all these
22 actions. You're doing things what you think is
23 right according to policy. You file a workplace
24 violence complaint and nobody would even read it.

1 You know, we haven't gotten there yet, but
2 even Tom Hendry, he didn't call me up for an
3 interview. I had to call him three times to ask
4 to be interviewed.

5 If you receive a workplace violence
6 complaint, according to policy, it's supposed to
7 be immediately and swiftly and fairly dealt with.
8 I don't believe the administration, the County,
9 Jack Mahar, anybody actually did what they,
10 according to their own policy, was supposed to
11 do.

12 At the very least, you shouldn't destroy it.
13 I don't know about you, but I always open my mail
14 before I tear it up and throw it out. So why
15 wouldn't Jack Mahar take a manila envelope that
16 the Chief of Corrections is trying to show him
17 and at least look at it before he tries to shred
18 it and rip it up?

19 Q. You said you heard a recording of Marcelle saying
20 that she had overheard these statements?

21 A. Yes.

22 Q. What recording is that?

23 A. I received a recording from Jimmy Karam of a
24 conversation he had with Marcelle Swanberry where

1 she clearly states lots of negative stuff about
2 Patricelli and the kind of person that he is and
3 that -- from my memory, I'm saying this -- and
4 that it clearly states that she heard Jack Mahar
5 tell Ruth Vibert to shred those documents. I
6 haven't listened to the recording in a couple of
7 months.

8 MR. SORSBY: Mr. Martin, we're going to seek
9 to have that tape transcribed and we'll have Mr.
10 Karam attest to it so we can have it in the record
11 hopefully by next week.

12 Q. In your complaint, you indicate that at this
13 point with Ruth losing her position, you had
14 additional stress.

15 Did you begin treating at all at this time
16 in -- I guess we're around February and March,
17 2013.

18 A. Treating for what?

19 Q. Mental health issues, stress.

20 A. I never had a mental health issue. So how would
21 I know what a mental health issue is? I'm not a
22 trained mental health professional. All I know
23 is that starting in October, life became very
24 different working than what it was.

1 Slowly, my hands started shaking. I thought
2 maybe because I skipped meals, I was working
3 16-hour days, I wasn't eating proper. I would
4 always go work out. I'm not eating enough
5 compared to the calories I'm burning. I started
6 getting a heavy chest feeling. I went to medical
7 to have my blood pressure taken and they said it
8 was high.

9 On my day off, I went to my general
10 practitioner, had my blood pressure checked. He
11 said it's a little high but, you know, it's okay.
12 There's stress and then there's stress over 10
13 months that turns into something. And it was
14 very stressful to know that my actions --

15 MR. SORSBY: I think, perhaps, maybe at
16 12:30, we'll take -- we should take lunch.

17 A. (Continuing) -- my actions caused Ruth to lose
18 her job. Because Ruth was a good boss. She was
19 fair. She listened to everybody in that
20 correctional facility. She made improvements at
21 the correctional facility. She listened to the
22 inmates in an appropriate manner which made the
23 officers job easier.

24 Overall, Ruth did a good job. I'm not

1 saying that because Ruth and I became friends and
2 all, because we didn't. We always kept a
3 professional relationship. She did a good job.
4 Because we went years without a Chief of
5 Corrections or colonel or whatever you want to
6 call them.

7 Q. Okay. We've already chatted about the Order of
8 Protection that you sought through the Criminal
9 Justice System, but you also wrote a letter to
10 Tom Hendry also asking for protection from
11 Patricelli. Do you recall that, a certified
12 letter?

13 A. I don't recall off the top of my head.

14 Q. Take a look at paragraph 88.

15 A. Yes. This was a letter that included again the
16 workplace violence complaint and asking for an
17 Order of Protection -- oh, an application for an
18 Order of Protection, yes. I did that because
19 still at this point, I had not been given an
20 interview or been told a workplace violence
21 investigation was being done. And I sent -- I
22 hand-delivered this to his office to Tom Hendry
23 personally, the workplace violence complaint.

24 Q. All right. We're talking about Exhibit 54.

1 A. I hand-delivered that and March 4th, I still
2 haven't been interviewed. Now, I'm sending
3 another letter. This was February 25th. I
4 delivered that the same day to Tom Hendry and I
5 still -- I mean, that's not a quick response. I
6 mean, why didn't he call me? Why didn't he
7 investigate it?

8 Q. Okay. The documents speak for themselves. I
9 don't usually go over those again. What happened
10 in response to the March 4 letter to Hendry?
11 What did he do?

12 A. Nothing.

13 Q. You didn't hear from him?

14 A. No.

15 Q. Did anybody else call, his agent or on his
16 behalf?

17 A. Not that I remember. I mean, I received calls
18 from people like Chris Meyer, but I don't know
19 when that -- I think that was later in March.
20 But at this point, I'm at my what Tom Hendry
21 would call a letter-writing frenzy. I just see
22 that I'm letting people know that I filed a
23 workplace violence complaint and nobody's doing
24 anything about it.

1 Q. Okay. And in your complaint which we're looking
2 at, paragraphs 88 through 90, those all refer to
3 the same letter; correct?

4 A. That's correct.

5 Q. Okay. There weren't separate letters, different
6 letters to these three --

7 A. To each individual, no.

8 Q. Okay. What did Patricelli do in response to all
9 these incidents and the criminal charges at work?

10 A. The following of the cameras and calls to Rankin
11 and all that escalated. That's when the more
12 cafeteria visits, more unit visits. I mean, I've
13 never seen him on a housing unit. Now that I'm
14 an officer on a housing unit, now he was showing
15 up.

16 And initially, I was given what's called a
17 program detail so I could still do keys and
18 things like that. So I made my way around the
19 jail a lot doing breaks and he would show up on a
20 housing unit and he never did that, he never went
21 to a housing unit. When he wanted to interview
22 an inmate, he would call up the officer that he
23 trusted usually Sergeant Maselli and that
24 sergeant would bring the inmate to the watch

1 commander's office or out to his office. He
2 never went in the facility.

3 Now, every day, he was in the facility that
4 I was working. Now, was he in the facility when
5 I wasn't working? I can't speak to that. But he
6 was there every day where I was, smiling, shaking
7 his head or just his mere presence where he
8 wasn't before.

9 In the correctional facility, you don't go
10 on a housing unit unless you need to when you're
11 a sergeant, because you disrupt the flow, you
12 undermine the authority of the person running
13 that housing unit.

14 He also gave -- I just thought of something.
15 Sorry. He also gave inmates phone calls for
16 giving him information. So when he would come on
17 a housing unit, he would disrupt everything
18 because he'd have 10 people go up to him wanting
19 to give information to get phone calls. Now,
20 your flow and your quiet --

21 Q. Was that related to you or was that part of his
22 gang, the phone calls thing?

23 A. The phone calls thing was related to his --
24 whatever his judgment. But showing up on my

1 housing unit and making it noisy and disrupting
2 the -- when you're trying to serve meals to 65
3 people, you're now creating a security issue.
4 And why did he do that on my shift? Why was he
5 there on my housing unit? There's 12 others.

6 Q. The information they were giving wasn't
7 information about you?

8 A. No, no. It's unrelated. Maybe not even real.
9 Just to get a phone call.

10 Q. All right. Maybe we can just -- on March 14th,
11 you filed a criminal complaint with Troy. What
12 happened with that?

13 A. Nothing. Because unbeknownst to me, Patricelli
14 worked a lot of overtime with the task force
15 which he eventually was kicked off of because he
16 put in for overtime he was not entitled to. And
17 this is in documentation and a phone recording
18 from Marcelle that shows that he put in in one
19 week, one pay period, enough overtime for the
20 whole program.

21 So he was putting in for overtime. And I
22 think you released documents from a personnel
23 file that said that he put in for overtime he
24 didn't actually work.

1 So the guy that took my report was one of
2 the people from the task force. So I was told
3 that it didn't rise to the level of the law and
4 the thing that I was seeking was some kind of
5 charges involving the other threats and actions
6 within the correctional facility. Captain
7 Strang-er (phonetic) was his name.

8 And what I didn't realize, because I'm not
9 up on everything, is that Jack Mahar and Pat
10 Russo worked for Troy and they were partners. I
11 didn't know all that.

12 Q. You finally received a letter dated March 27th
13 from Tom Hendry indicating that the claims were
14 too difficult to substantiate and between the
15 time you filed the complaint, workplace violence
16 complaint, and March 27th, had you spoken to Tom
17 Hendry at all?

18 A. Not only during the interview where we previously
19 heard testimony that he took no notes, I called
20 him multiple times and I do have voicemail that
21 we can introduce evidence, if Patrick wants to,
22 asking him, you know, did you interview this
23 person?

24 I told him everything the first day I went

1 about everything that happened, all the
2 individuals that had been involved and everything
3 that had taken place. And according to as you
4 just read, there were too difficult to
5 substantiate. Needless to say, I wasn't happy
6 with those findings.

7 Q. And you appealed, correct?

8 A. There is no appeal process.

9 Q. You went and complained to the Labor Department.
10 Was that the next action with respect to
11 Hendry's --

12 A. I did, because the workplace violence policy and
13 law, if you want to call it that, is dictated by
14 the Labor Department. I did some research and
15 some homework and figured it out. So I filed a
16 complaint with the Labor Department.

17 Q. Okay. Which was founded, if I remember
18 correctly?

19 A. Founded that Tom Hendry did an improper
20 investigation by not interviewing all the parties
21 and, to this date, all the parties aren't
22 interviewed.

23 Q. Okay. Who hasn't been interviewed that should
24 be?

1 A. To this date?

2 Q. To this date.

3 A. They've never interviewed Ruth Vibert. They say
4 they didn't interview Ruth Vibert because she
5 filed a lawsuit. The lawsuit was filed way after
6 my workplace violence complaint was filed.

7 So if they had interviewed her immediately
8 prior to March 25th when -- or March 27th when he
9 made his findings, she wasn't suing the jail at
10 that time. So why wasn't she -- she was directly
11 involved in the situation. Why wasn't she
12 interviewed?

13 Q. Anybody else they didn't interview?

14 A. The Labor Department found her and Jeff Rankin
15 not to be interviewed.

16 Q. Okay. Anyone else from your perspective?

17 A. From my knowledge, no.

18 Q. You reported to Bill Webster that Patricelli had
19 used the e-Justice system to do the background
20 check --

21 A. Yes, I did.

22 Q. -- of Mr. Colantonio?

23 A. Yes.

24 Q. How did you find out he had done that?

1 A. If you recall, we went over the workplace
2 violence claim, the February 15th, 2013 phone
3 call, he tells me he did it.

4 He says, "Do you know where your sister is?
5 She's with Peter Colantonio. Do you know what he
6 did?"

7 I'm like "no".

8 "Well, he has a warrant."

9 "Well, how do you know he has a warrant?"

10 "Well, I checked up on him."

11 So I went to Wendy Vega who is a
12 classification officer. I said, you know, "You
13 don't have to do this and if it's breaking any
14 rule, please tell me." I wasn't a sergeant at
15 the time, I was just an officer. I said, "I'd
16 like to know did Patricelli ask you, if you can
17 tell me, did he ask you to run Peter Colantonio's
18 name?" And she said yes.

19 Q. She actually had misgivings about it when he
20 asked her, didn't she, Wendy?

21 A. I don't know.

22 Q. She never expressed that to you?

23 A. We didn't talk about that.

24 Q. Okay. And what did you do with the information

1 that you had received from Wendy?

2 A. As you said, I talked to Billy Webster and I
3 believe my brother went with me because I knew
4 Billy Webster, but I didn't know who was in
5 charge of e-Justice, my brother did, so he did an
6 investigation.

7 Q. Okay.

8 A. Do you want me to go on with that, what I know
9 about that investigation, or no?

10 Q. I've forgotten if -- was Patricelli suspended
11 from work as a result of the e-Justice issue?

12 A. Not until mid-June of 2013, if I have the year
13 correct. I believe it's 2013.

14 Q. All right. You don't happen to recall the date
15 he was charged with using the e-Justice system?

16 A. I do not.

17 Q. I'm trying to remember how long the investigation
18 was that Webster did.

19 A. Well, I know that Billy Webster did an
20 investigation. He called my brother one day and
21 said, "Meet me over in the Sheriff's Department
22 side --" they had a deputy side "-- and if your
23 brother's there, bring him."

24 And he told us that if you guys want

1 anything done with this, you need to call DCJS
2 yourself because the Sheriff took the file and
3 said nothing's going to happen.

4 So the only reason Patricelli was charged
5 with anything was -- and again, there's a letter
6 that you submitted and I believe it's in
7 evidence -- that we called DCJS, my brother and
8 I, and let them know that there was improper use
9 of the e-Justice system and that the Sheriff's
10 Department refused to do anything to the
11 individuals involved.

12 Because that's a serious issue if you're
13 running people that -- they ran Peter Colantonio
14 as a new inmate of the jail. That's how they got
15 his information. So I don't think that Kevin
16 Martin would like to be run as a new inmate at
17 Rensselaer County Jail to find out what his
18 information is. I don't think you'd like that.

19 And since I took an oath in office and so
20 did my brother, and I meant everything I said
21 when I raised my right hand, we informed the
22 proper authorities because our boss wouldn't do
23 anything.

24 So I'm not sure when he was charged, because

1 they came in and did an audit and they sent the
2 information to the DA's office.

3 Q. DCJS?

4 A. DCJS sent the information, right, and they sent
5 the information to the DA's office and that's
6 where the charges came from. I'm not sure
7 exactly when those charges happened.

8 Q. In your complaint, you indicate that Sergeant
9 Maselli, Sergeant Walraed and Sergeant Gecewicz
10 began to join in the harassment, if that's a fair
11 statement?

12 A. Yes. As I said in the beginning, when I first
13 was demoted, I was given program officer spots.
14 So program officer spots do breaks and then they
15 have a lot of downtime.

16 So during that downtime, I was making keys
17 and fixing computers and doing those other
18 details that I did as a sergeant. Because,
19 normally, sergeants do their rounds and then sit
20 in an office with their feet up on a desk until a
21 code goes off, there's a lot of downtime in
22 correctional facilities. I prefer to make the
23 eight hours or sixteen, depending on what you
24 had, go by fast. So I volunteered and asked for

1 details so I was given those details.

2 Sergeant Maselli is Patricelli's best
3 friend. They did a lot of stuff outside of work.
4 They went to races. They are very tight.
5 Sergeant Walraed, he's the former Sheriff's son,
6 very good friends with Mahar. And Sergeant
7 Gecewicz was a good military brother friend of
8 Mahar. They would order me off my lunch -- you
9 can't be ordered off your lunch. The only
10 time -- well, you're not supposed to be ordered
11 off your lunch; how about that? -- to take
12 deliveries of milk trucks or bread deliveries.

13 If I was in the middle of doing a key thing,
14 they would call me on the radio and say, "Report
15 to the watch commander's office", and they would
16 give me, "Well, this inmate needs to go be
17 strip-searched."

18 Well, there's five other people sitting in
19 the office talking to the watch commander and the
20 sergeants and they're ordering me who's doing
21 keys.

22 As a sergeant and as a correctional officer
23 up until that time, that stuff had never happened
24 to me before, ever. So I saw that and I don't

1 know how otherwise I could see it as being
2 harassed by these individuals by being given
3 excessive work details.

4 They had a kitchen officer. They also had
5 an officer who was assigned to the hallway near
6 the kitchen. Those are the officers who do the
7 deliveries. So I would go do a delivery that was
8 ordered, because it was a justified order, you
9 know, and the officer who was in that area would
10 say, "What are you doing?"

11 "Well, I'm doing this delivery."

12 "Well, I got the delivery."

13 "Well, I was just ordered to do it."

14 So there was no reason this officer was busy
15 with something else for me to be doing that other
16 than it was retaliatory, it was harassment, it
17 was excessive.

18 Because if you have people to do their
19 assigned job that they were assigned to do that,
20 why are you asking me to do it?

21 MR. MARTIN: Should we take a break at this
22 junction?

23 (Whereupon, at 12:41 p.m., a lunch break was
24 taken.)

1 Afternoon Session

2 (Whereupon, at 1:15 p.m., the following
3 proceedings were had:)

4 BY MR. MARTIN:

5 Q. I believe when we left off before lunch, you were
6 describing the details that you were being
7 assigned which you felt were retaliatory. And
8 you described the milk truck, doing strip
9 searches.

10 Were there other things of that kind that
11 you were assigned that you felt were in
12 retaliation for your complaints about Patricelli?

13 A. Yes. When these individuals, especially Maselli
14 as watch commander, you did assignments, my
15 assignments were changed. When you work eight
16 hours and, say, you work on a housing unit and
17 then you get ordered for eight hours, the policy
18 is you're not supposed to work on another housing
19 unit. You're supposed to be given a program
20 spot.

21 My assignments were initially given as
22 program spots and then changed to work units.
23 I'm just giving you some examples. The
24 deliveries, the strip searches and then that,

1 those are the three major examples.

2 Q. How often did you get these kinds of assignments?

3 A. How often did it happen? Depending on when they
4 worked and I worked, there was other -- I think
5 later on, there's another individual who's named
6 Connell, Jr., the second person, I can't think of
7 his first name at the moment, he did the same
8 thing, I don't know, once or twice a week. I
9 can't think of the first name. If you do it too
10 often, don't you make it too obvious?

11 Q. You indicated in your complaint that you were
12 requested to provide false testimony against Ruth
13 Vibert. When was that?

14 A. We talked about that. That was during the
15 meeting with the Sheriff approximately February
16 8th involving Patricelli's complaint.

17 Q. You indicate in your complaint that some time in
18 April, you had a telephone conversation with Tom
19 Hendry in which he was responding on behalf of
20 Kathy Jimino. Do you recall that?

21 A. Yes.

22 Q. What did he say to you and what did you say to
23 him?

24 A. He just said, "I'm returning a call on behalf of

1 Kathy Jimino and I understand you called her.
2 What do you have to tell me?"

3 And I said, "Tom, the same thing I've been
4 telling you for weeks now." I received the same
5 call from Chris Meyer. Tom Hendry refused to
6 investigate my workplace violence complaint fully
7 or at all.

8 Q. In your view, why did Tom fail to investigate
9 your complaint fully?

10 A. I think in my opinion or, I mean, we already
11 interviewed Tom Hendry and he told you he wasn't
12 trained, he didn't know, he wasn't working with
13 the Sheriff's Department. I just think he was
14 directed by the Sheriff that this was not a
15 workplace environment -- workplace violence issue
16 and to make it go away. What else can you
17 believe?

18 I don't have any proof for that but the
19 actions speak for itself. The man didn't
20 investigate. He interviewed me and took no
21 notes. You've been here doing depositions, you
22 take notes every single time you sit here. So he
23 interviewed me for three hours and he took not
24 one note that's been provided by you guys or that

1 he said he took, because we interviewed him and
2 he said, "I don't have any", he doesn't know why.

3 So he didn't remember any facts because he
4 didn't want to. So how do you do an
5 investigation without taking notes?

6 So my belief is that it was their intention
7 to make me go away and they thought that if they
8 did nothing with the workplace violence complaint
9 that I would shut my mouth and I would go away.

10 Q. You didn't know Tom socially or anything, did
11 you?

12 A. I never met Tom Hendry before in my life until
13 the day I handed him the workplace violence
14 complaint.

15 Q. Did you ever -- actually, strike that.

16 As I recall from Mr. Hendry's testimony on
17 deposition, he did go back and do some additional
18 investigation but he never interviewed you a
19 second time. Is that correct?

20 MR. SORSBY: Objection as to the form of the
21 question. Do you understand the question?

22 THE WITNESS: I understand.

23 MR. SORSBY: Okay, go ahead.

24 A. No. He only interviewed after I wrote all those

1 letters on March 4th to all those individuals
2 that we talked about, Kathy Jimino and all those
3 on March 7th. That was the only interview I've
4 ever gotten when I filed my second workplace
5 violence complaint. I was never interviewed, I
6 was never consulted, nothing.

7 And to my knowledge, the other individuals
8 listed in that were never interviewed either.
9 Tom Hendry testified at Workman's Comp, and we
10 can submit the deposition if you want, that he
11 was working on it, and this was back in 2014, he
12 was working on it and that in the very beginning
13 of early 2014 that his decision for the July
14 incident was with the attorneys.

15 So he, by that point, had no intention of
16 actually investigating it. They just sent it to
17 the attorneys. So that says to me that you
18 really don't care about verifying facts with
19 individuals or finding out my side of the story.
20 You're just going to try to make me go away by
21 siccing attorneys on it, Goldberg and Pechenick.

22 Q. Did he testify during that deposition that he was
23 being advised by counsel not to do anything about
24 your second workplace violence complaint?

1 MR. SORSBY: Objection to the form of the
2 question. Do you recall the --

3 Q. If you know.

4 A. He said that he was working with the Sheriff's
5 Department and that the determination had been
6 made by the authorities and that it was being
7 reviewed by counsel within Rensselaer County but
8 he hadn't interviewed me, hadn't called me,
9 hadn't discussed any of it.

10 And part of my complaint of the July
11 workplace violence was Tom Hendry. So why would
12 you have the person who's part of the complaint
13 do the investigation? It's just bad police work,
14 bad investigation work.

15 MR. SORSBY: Off the record for a second.

16 (Discussion off the record.)

17 BY MR. MARTIN:

18 Q. Do you have any evidence that Kathleen Jimino has
19 a personal relationship with Sheriff Mahar?

20 A. Do I have any personal evidence? I know what I
21 was told, but do I have personal evidence? No.

22 Q. What were you told?

23 A. I was told by her nephew -- excuse me, her
24 son-in-law, Aaron Simard, that they have a very

1 close relationship and that they often did
2 functions. I went to a few fundraisers for Jack
3 Mahar when I helped with his campaign and they
4 ate together, they talked, they were very --
5 seemed very close from what I could see.

6 Q. All right. And do you have any evidence that
7 Kathleen Jimino and Sheriff Mahar ever discussed
8 your workplace violence complaints or your
9 difficulties with Patricelli?

10 A. Can you define evidence? Do I have written
11 documentation? No.

12 Q. Testimony, too. Like, if you heard from somebody
13 from the County. Even if it's hearsay, it's okay
14 for now.

15 A. I don't know. I have -- I don't know.

16 Q. You don't have any or you don't know if you do?

17 A. I don't recall that I've read anything and I
18 can't think at this second if I have any.

19 Q. Okay, good enough. In your complaint, you
20 indicate that the Order of Protection was not
21 enforced by the facility. And I guess my
22 question is: What was your expectation with
23 respect to the Order of Protection within the
24 facility?

1 A. Same thing an Order of Protection should mean for
2 anybody; that he doesn't appear in the cafeteria
3 at the same time I have my lunch; that he does
4 not appear on my housing unit; that he does
5 not -- he's not in the same room that I'm in.

6 And in evidence, Tom Hendry says in his very
7 letter that I, John Gorman, should stay away from
8 Anthony Patricelli. The Order of Protection is
9 not against me. It's against him to stay away
10 from me.

11 So Tom Hendry is telling me to stay away
12 from Patricelli, but I have to go to work every
13 day. I don't have free roaming of the facility
14 because I'm no longer a sergeant. He is a master
15 sergeant and is answerable to only the Sheriff.
16 He can go anywhere he wants any time he wants.

17 Did I answer your question?

18 Q. Yes.

19 A. Okay.

20 Q. Do we have that Order of Protection, actually?
21 Let's just take a quick look.

22 A. I think there are two and I think we did mark
23 them. This would be relative to the time frame
24 you're talking about now, so this is good enough.

1 (Indicating)

2 Q. Getting right around the time, right. Looking at
3 Exhibit 41 that we had marked in a prior
4 deposition, there is a handwritten notation about
5 three quarters of the way down that says
6 "incidental contact consistent with employment".

7 Do you know who wrote that there?

8 A. All this is filled out by the Judge.

9 Q. Did the Judge ever explain to you what the term
10 "incidental contact consistent with employment"
11 meant?

12 A. That Order of Protection was sent to me via mail.
13 Nobody met with me or explained anything to me.

14 Q. Did you ever go back and complain to the Judge
15 that it wasn't working?

16 A. I called the ADA on the case and did that. But
17 did I go to the Judge? No. Because --

18 Q. Do you know if the ADA went back and talked to
19 the Judge?

20 A. They say they're going to. They did issue a
21 second one when this expired but I have no
22 knowledge of that. The best I can do is call the
23 ADA. I don't have direct contact with the Judge.

24 Q. Did you ever have discussion with Sheriff Mahar

1 about what the phrase "incidental contact
2 consistent with employment" meant?

3 A. Nobody from the administration met with me in
4 reference to the Order of Protection. I handed
5 it in and that was as much -- but what I think it
6 means is probably a contact during employment is
7 okay but, remember, that I had no functionality
8 in employment with Patricelli except for he was a
9 key player in the chain of command.

10 So he was a supervisor and, in my mind, it's
11 their responsibility to make sure he didn't have
12 incidental contact with me, because he didn't --
13 he wasn't in charge of the west side of the jail.
14 He was in charge of the bigger picture.

15 So you're going to tell me that I need to
16 know what this means, because that means he could
17 have contact with me while I'm working. But what
18 I'm telling you is that he had no day-to-day
19 function except for he was a supervisor.

20 So as a supervisor, he should have been
21 told, hey, you can't supervise somebody that has
22 an Order of Protection against you.

23 Is that -- does that make -- am I saying
24 that correct?

1 MR. SORSBY: Since we're reading from the
2 exhibit, can we just have him read that full line
3 there, the full quote, the actual full where it
4 says --

5 THE WITNESS: Surrender --

6 MR. SORSBY: No. It says something before
7 "incidental". Read the whole line.

8 THE WITNESS: "The specific other conditions
9 defendant must observe".

10 MR. SORSBY: Okay.

11 THE WITNESS: Is that what you mean?

12 A. "Incidental contact consistent with employment."
13 Only the Judge really knows what that means,
14 right? You can interpret it, I can interpret it.

15 Q. My question is -- I know you handed it in. I
16 forgot now who you told me --

17 A. I gave it to Hal Smith because he's the highest
18 ranking person other than the Chief who was no
19 longer there at the time at the jail.

20 Q. Did you ever talk to Hal about what he thought it
21 meant?

22 A. He said he would meet with the Sheriff and get
23 back to me. Because he directly reported to the
24 undersheriff and the Sheriff and then nobody ever

1 got back. And the whole time during this entire
2 thing when the harassment and all these things
3 took place, I verbally reported it to Hal Smith,
4 Sergeant Rankin, Sergeant Dunham, all of the
5 individuals I've talked about previously, and
6 also put the July incident in writing. I think
7 this might be the later one. I think there might
8 have been one before this.

9 Q. The Order of Protection?

10 A. Yeah, there were two.

11 Q. Yeah.

12 MR. SORSBY: Off the record.

13 (Discussion off the record.)

14 BY MR. MARTIN:

15 Q. We've already talked about Chris Meyer giving you
16 a call, and I can't remember sitting here if we
17 got into any detail about what was said by you
18 and what was said by him.

19 A. I should say he left a voice message saying he
20 was following up on behalf of Kathy Jimino about
21 my further problems with Tom Hendry and my
22 workplace violence complaint.

23 I returned the phone call within hours of
24 receiving it and received no phone call back. So

1 I didn't actually have any conversation with
2 Chris Meyer. I still obtained that voicemail if
3 you'd like it.

4 MR. SORSBY: Voicemail from who, John?

5 THE WITNESS: From Chris Meyer.

6 MR. SORSBY: Okay. All right.

7 Q. In your complaint, you indicate that on April
8 15th, 2013, you had a conversation with Sergeant
9 Rankin where he told you that he wished someone
10 would give Patricelli something to do other than
11 following you all day, and you have a good
12 specific date there.

13 How are you able to remember the date?

14 A. Because I was in the office I believe, getting
15 permission for what I was doing for the day
16 because that was the order and Patricelli called
17 Rankin on the radio, Sergeant Rankin called
18 Master Sergeant Patricelli and he called him and
19 when he got off the phone with Patricelli, that
20 was exactly what he said.

21 Q. You indicate in your complaint that on May 7th,
22 the Department of Labor came in and did an
23 on-site investigation. Were you present for all
24 of the interviews that the DOL conducted that

1 day?

2 A. I wasn't present for any of them.

3 Q. Okay. How did you know that Undersheriff Russo
4 was present for those meetings?

5 A. When they sent out their findings, if you read
6 the first page, it lists all of the individuals
7 who were there.

8 Q. And they interviewed you separately?

9 A. I went down to their office in Albany and was
10 interviewed for hours along with Ruth Vibert and
11 Jim Karam separately. We weren't interviewed
12 together.

13 Q. You indicate in your complaint that Sergeant
14 Connell was harassing you by giving you, if I can
15 call them, details? No. Giving you the
16 assignments that were not usual, such as the milk
17 truck --

18 A. Details would have been fine.

19 Q. Details. Is that the terminology?

20 A. Yes.

21 Q. And you indicate that it was in conspiracy with
22 Sheriff Mahar and with Patricelli. I was
23 wondering what evidence you had of any conspiracy
24 among Mahar, Patricelli and Sergeant Connell,

1 either documentary or even hearsay, that you
2 heard from others.

3 A. We can provide documents, if you like. Going
4 back to the workplace, the Labor Department
5 investigation, Connell, Sr., his father, Connell
6 Jr.'s father, works at the jail, he was the union
7 president at the time. He refused to go to those
8 meetings and represent me as a union member, a
9 paying union member.

10 And when I questioned him in an office where
11 his son was, he said he had better things to do
12 on his days off or while he's working than to
13 represent some idiot who can't keep his mouth
14 shut.

15 And I said, "You know what? You're the
16 union president. You should represent everybody
17 fairly whether you agree or disagree with their
18 issue. That is your job. That's what you signed
19 up for. That's what you were elected to do."

20 After that point -- after I called his
21 father out in the office, after that point,
22 Connell, Jr., who I never had to deal with, never
23 had any problems with, never had even spoke to, I
24 now was getting ordered off lunch, all those

1 things.

2 Q. Connell, Jr., was present for this conversation
3 between you and Connell, Sr.?

4 A. Yes, he was in the office with us. Connell,
5 Jr., and Connell, Sr., are Jack Mahar's biggest
6 campaign contributors for his running for
7 Sheriff, and I can prove that in documentation,
8 if you like. That's my connection with Connell,
9 Jr.

10 Connell, Jr., worked for years and only
11 ever -- even still only ever worked one housing
12 unit. Nobody in the jail works one housing unit
13 without being rotated.

14 Q. Is he retired now?

15 A. I have no idea.

16 Q. In your complaint, it seems like -- I'm looking
17 at paragraph 128, if you want to go there. It
18 seems like after the incident with Connell, Jr.,
19 and Connell, Sr., I guess, you discussed that
20 with Sergeant Rankin; is that correct?

21 Look at the last sentence there. You might
22 be referring to something else in there. I'm not
23 trying to put words in your mouth. I just want
24 you to clarify for me.

1 A. I think that paragraph includes not only Connell,
2 Jr. -- it says Sergeant Connell. I'm assuming
3 it's Junior. It includes the whole situation.

4 Q. I'm just sort of trying to get a time frame on
5 when you may have spoken with Jeff Rankin.

6 A. I spoke with Jeff Rankin very often because he
7 was my training officer as a sergeant. I thought
8 that he and I had a pretty good working
9 relationship and whenever there was issues, he
10 was the watch commander, he's in charge of the
11 whole B line shift, you would go to him and talk
12 to him and he'd be a good ear, a good sounding
13 board.

14 And that's where the comment "You need to be
15 patient". I'm not sure what I was being patient
16 for, but that's what he kept saying.

17 Q. This is looking at paragraph 127 of the
18 complaint. We're up to some time in May or some
19 time after May 8th. So I was just trying to get
20 an idea of when you may have heard from Jeff that
21 you need to be patient, in quotes.

22 A. Oh, you want a date?

23 Q. A time frame. I wouldn't expect a date, to be
24 honest.

1 A. I don't -- somewhere between May there and June
2 and, you know, when Patricelli gets suspended,
3 you know.

4 Q. All right. Now, we're up to the point where, in
5 June, you had a phone conversation with Tom
6 Hendry. And we might have spoken about this once
7 already, but I wonder if you can tell me what you
8 said to Tom and what Tom said to you on this
9 occasion, June 4th, 2013. Jump up to 129. Look
10 at 130, too, if you want.

11 A. Yeah, I think this is related to the October 8th
12 phone call and Tom Hendry's go-to is "I can't get
13 any help from the Sheriff's Department." That
14 was all he said. "I can't get down there to do
15 interviews."

16 He even told the Labor Department, as you
17 read, "I couldn't interview these people because
18 I couldn't go there. I didn't go there, I
19 couldn't get them on the phone."

20 My great attorney said, "Can't you drive the
21 less than a mile down to the jail to interview
22 the individuals?"

23 That relates to that. So I said, okay, you
24 can't get a phone call, you can't get a recording

1 and you're saying the undersheriff is not
2 returning your calls, I believe that says, right?

3 He sends e-mails and made phone calls,
4 messages for Undersheriff Russo and had received
5 no response.

6 So I went over to see Marcelle with Jeff
7 Rankin's permission, because I'm on the clock,
8 and asked if I could have a meeting with Pat
9 Russo, the undersheriff at the time, to find out
10 what was going on with the phone call.

11 Q. And what did Marcelle say?

12 A. She said, "What's in it?" In regards to -- I
13 explained what I just explained to you. And she
14 said, "Go back to work, I'll let you know."

15 Q. What happened after that?

16 A. And a few minutes later, I was called by Jeff
17 Rankin to come down to the office to go over to
18 see Undersheriff Russo.

19 Q. All right. What day was this again?

20 A. June 4th.

21 Q. All right. Was this the first time that you had
22 interaction with Pat Russo regarding your issue
23 with Patricelli and Mahar and Patricelli's
24 friends?

1 A. That didn't involve something in writing? In
2 person in person?

3 Q. Yeah.

4 A. Yeah, this would be the first in-person meeting I
5 had with him. As far as writing of documents,
6 there were plenty of those.

7 Q. He had received copies of a number of items?

8 A. Right. First time I met with him in person.

9 Q. Was anyone else present for the meeting?

10 A. The door was open and Marcelle Swanberry was
11 sitting in her office right outside.

12 Q. All right. And what did you say to Pat and what
13 did Pat say to you?

14 A. From my memory, he said that he wasn't preventing
15 Tom Hendry from getting any phone call, that he'd
16 been busy and that he'd get to it when he got to
17 it. And I went on to explain the situation that
18 was going on with Patricelli and the thing and --

19 Q. How much detail were you able to get into with
20 Pat?

21 A. Not a lot of detail because he said, "Well, I
22 already know about all of that." While I was
23 sitting at his desk, he's got two chairs, on the
24 left-hand side of his desk in a manila envelope

1 in big writing was "John Gorman Workplace
2 Violence". So I could see that he already had
3 all the documentation.

4 So he said, "I know about your situation.
5 I'll get the phone call to Tom Hendry." And he
6 basically said, "I don't have time to discuss
7 everything right now."

8 And I was very upset, because he really
9 didn't want to be bothered with it. And I went
10 back to the office and I sat down with Jeff
11 Rankin. He said, "Take a minute". And I was
12 physically shaking and emotionally upset.

13 And Jeff asked me if I needed to go home.
14 Again, I don't know, not being very smart, I
15 said, "No, I'm okay, I don't need to go home,"
16 and I went back to work.

17 But it took me about a half hour, 40 minutes
18 to get myself together because, here, you have an
19 undersheriff who knows all the stuff that's going
20 on. He told me he did. I didn't need to get
21 into detail. He knows it all and he's not doing
22 anything about it.

23 And up to this point, I followed all the
24 rules. I didn't use e-Justice. I didn't

1 threaten people. I didn't get peoples' home
2 numbers. I didn't do any of that stuff. I
3 filled out forms. I informed my supervisors. I
4 did everything I was supposed to do and I'm more
5 of a criminal than a victim.

6 Q. And did you socialize with Russo outside of work?

7 A. Before I got the job at the jail, I never saw him
8 before in my life.

9 Q. And when you worked there, you did not become
10 friendly or anything or unfriendly?

11 A. The first time I talked to Pat Russo, he called
12 me over and he said, "So I hear you want to
13 accept the promotion to be provisional sergeant."

14 I said, "It would be a great honor to be a
15 supervisor and authority."

16 He said, "Really, you want to do this?"

17 I said "yes", and he said okay, and that was
18 the end of the conversation.

19 Q. So you didn't have much interaction with him?

20 A. No.

21 Q. All right. Do you have any evidence, documentary
22 or hearsay or anything, that Sheriff (sic) Russo
23 conspired with Sheriff Mahar and Patricelli and
24 his friends to retaliate against you?

1 MR. SORSBY: Other than what's already been
2 introduced? Are you asking if he has evidence on
3 him?

4 MR. MARTIN: On Russo, yeah, about Russo.

5 MR. SORSBY: Other than what's already been
6 introduced to the extent that it answers your
7 question?

8 MR. MARTIN: Sure.

9 MR. SORSBY: Are you aware of any other
10 evidence that you haven't already introduced or
11 that hasn't been admitted?

12 THE WITNESS: No.

13 Q. What would motivate Russo to want to --

14 MR. SORSBY: Objection to the form of the
15 question.

16 Q. -- harm you at work? Feel free to speculate. At
17 this point, all this wild stuff is admissible.

18 A. What I do know is that Mahar was married to
19 Russo's sister. I do know that Mahar was
20 cheating on Pat Russo's sister. I do know that
21 the way Mahar got caught was another co-worker
22 told Mahar's wife.

23 Q. The situation sounds similar.

24 A. I do know if I spent 30 years as somebody's

1 partner and they wanted me to do X, I'd probably
2 keep my mouth shut and do it. Me personally, I
3 wouldn't. But it's not a far stretch.

4 So Pat Russo had all knowledge of everything
5 that was going on. He had an opportunity to stop
6 it or to intervene and he did nothing. So to me,
7 that is -- and I'm not a lawyer. But to me, that
8 is evidence to show that he not only should have
9 known but he did know and he had an obligation as
10 the oath he took of office and the policies that
11 he knew of Rensselaer County that he should have
12 done something if his boss was not doing it.

13 But motivated by that relationship, he may
14 have kept his mouth shut and acted along with
15 Mahar.

16 Q. Okay. Did Undersheriff -- at the time
17 Undersheriff Russo ever tell you that Sheriff
18 Mahar had actually assigned him to look into your
19 complaints about Patricelli because of the
20 perception that Mahar and Patricelli were close
21 friends?

22 A. No, not that I --

23 Q. Did you hear that from anybody else throughout
24 this?

1 A. No.

2 Q. Okay.

3 A. As far as I know, the Sheriff's Department never
4 did any kind of investigation into this workplace
5 violence or anything.

6 Q. All right. Your complaint indicates that on June
7 17th, you had another conversation with Tom
8 Hendry. And other than what's in paragraph 138
9 that you've already written, is there anything
10 else you can remember about that conversation?

11 MR. SORSBY: You can read 138.

12 MR. MARTIN: I think that's the only
13 paragraph about that.

14 A. Can you ask your question again, please, since I
15 read that?

16 Q. I just wonder if there's anything else that you
17 can remember about that conversation other than
18 what's already written there in paragraph 138.

19 A. All I remember is talking to Tom Hendry about,
20 you know, that he was busy and that he didn't
21 hear anything threatening. I said, well, you
22 could listen to a statement and not think it's
23 threatening but I can listen to a statement and
24 think it's threatening because it's related to

1 me, it's not related to you. For somebody to say
2 I'm going to shoot you in the head? No. But do
3 you know what "thank your wife, thank your
4 brother, thank you, you'll pay" means? Does that
5 mean anything to you? But if it involved your
6 family and you, it might mean something to you.

7 That was the kind of conversation we had.

8 By the way, he said he's going to get
9 something out. That statement never came til, I
10 don't know, was it 2015? It was a long time
11 before they put any findings out for the
12 workplace violence complaint.

13 He never -- this is before the workplace
14 violence -- second workplace violence complaint.
15 He never put out a second finding for the first
16 workplace violence complaint.

17 The Labor Department said "you didn't do a
18 good investigation, you didn't interview these
19 people, you didn't look at these facts."

20 You have all these pages and we have
21 evidence that shows phone calls and evidence. He
22 never wrote another finding to add to that March
23 finding to the first workplace violence claim.

24 Q. Did Mr. Hendry have any response to your

1 discussion with him about what I'm going to call
2 the more implied threats than maybe were
3 expressed but were implied, statements like
4 "thank your brother"?

5 A. Other than he didn't find -- he didn't hear
6 anything threatening, other than that, no.

7 Q. You indicate in your complaint that you were
8 intentionally hit with a heavy metal door --

9 MR. SORSBY: Excuse me for a minute. Off the
10 record.

11 (Discussion off the record.)

12 BY MR. MARTIN:

13 Q. You indicate in your complaint that you were
14 intentionally hit with a heavy metal door by
15 Sergeant Maselli. And have you had an
16 opportunity to review the videotape of that
17 incident?

18 A. I never received a video from that incident.

19 Q. It's on there.

20 A. Never reviewed it.

21 MR. MARTIN: Off the record.

22 (Discussion off the record.)

23 BY MR. MARTIN:

24 Q. Maybe just based upon our off-the-record

1 discussion, I could follow up with a question
2 about how the doors, from my knowledge, are
3 controlled. And I took it from our
4 off-the-record discussion that it wasn't
5 necessarily just that somebody slammed the door
6 but there was some other method of control of the
7 doors opening and closing that may have come into
8 play?

9 A. Well, we don't know why that door -- why that
10 individual allowed the door to close but that
11 door is not controlled electronically like any
12 other door. It had a special thing installed by
13 maintenance, a chain that held it open.

14 Maselli was standing in front of the door
15 and four other people were in the office when I
16 entered the office. I was standing in the
17 doorway and Maselli walked away from the door,
18 didn't look back, didn't anything, and went
19 behind the desk and the door hit me from behind.

20 Maselli as a supervisor's job is to make
21 sure that no harm comes to anybody, any officer,
22 any inmate. He allowed that door knowing that it
23 had been like that for years, that that door
24 doesn't stay shut or, excuse me, open unless that

1 chain is affixed. So as I'm a supervisor, or
2 when I was, I would conscientiously make sure
3 that door was secure, otherwise, that door is
4 going to hit somebody.

5 So it's in my mind his job and obligation as
6 a supervisor to make sure that that's safe for
7 employees. My workplace violence complaint was
8 found to be unfounded because the door never hit
9 me. But witnesses' statements, three out of the
10 five, say the door hit me.

11 My work -- my 207(c) decision was denied
12 solely based upon McIntyre's and Hal Smith's
13 investigation that said the door never hit me.
14 Whether or not, you know -- sorry. You didn't
15 ask that question. Sorry.

16 MR. SORSBY: Can I just ask a real quick -- I
17 know we're out of order.

18 MR. MARTIN: Sure, no, that's fine.

19 MR. SORSBY: Was the door open when you came
20 in?

21 THE WITNESS: Maselli was standing on the
22 door. It was like the door was open, he was
23 leaning against it.

24 MR. SORSBY: Okay.

1 THE WITNESS: He was acting as the doorstep.

2 MR. SORSBY: Then he walked away?

3 THE WITNESS: And then he just walked away
4 from the door.

5 MR. SORSBY: Okay.

6 BY MR. MARTIN:

7 Q. What was the purpose of the meeting, if you
8 remember?

9 A. The computer system went down on the north end of
10 the jail and I was called off of my unit by
11 Connell, by Sergeant Connell, Jr., to fix the
12 computer, because Sergeant Dunham requested me
13 to.

14 And I said to Sergeant Connell that I can't
15 do it unless I hear -- unless Sergeant Dunham
16 tells me because it involves Black Creek
17 Security, it involves rebooting, it's a security
18 issue unless Sergeant Dunham tells me to do so.
19 That's why I was in there.

20 Q. Okay.

21 A. If I can add, that was not part of my job duties,
22 by the way.

23 Q. Why were there so many people involved if that
24 was -- if all they wanted to do was to have you

1 come in and try to help them with the computer?

2 A. What do you mean?

3 Q. Weren't there five people in the room?

4 A. Why were so many people in the office or --

5 Q. Yeah.

6 A. It's the watch commander's office, which that
7 office is normally a hangout. Three of the
8 people were sergeants.

9 Q. They were just already there when you got there?

10 A. They hang out there and talk and two of them were
11 program officers.

12 Q. So they weren't necessarily there for the
13 problem; they just were there?

14 A. Correct.

15 Q. I gotcha. Somehow, I had in my mind that it was
16 like a meeting that the five of you were having
17 together?

18 A. No. There's only two people in the whole place
19 that can reboot the computer that can do what
20 they needed done.

21 Q. And that door has an automatic door closer on it;
22 correct?

23 A. You mean it has an arm on it that slams it shut?

24 Q. Yes.

1 A. Or hydraulic, yes.

2 Q. Forgive me, we talked about this, but July 10th,
3 2013, you indicate you had a phone call from Tom
4 Hendry regarding a Notice of Violation from DOL.
5 So this is paragraph 143 of the complaint. Do
6 you want to take a look?

7 A. That must have been involving -- I don't know
8 what the violation was, but that was involving
9 the second workplace violence complaint.

10 Q. Do you remember anything else about that
11 conversation with Tom, what he said to you --

12 A. Other than he was investigating my second
13 workplace violence complaint, I may have talked
14 about how I didn't understand why he would be
15 investigating it since he was part of the
16 issue -- he was part of the complaint.

17 Q. What did he say in response to that?

18 A. I don't recall.

19 Q. Okay. Anything else?

20 A. I don't recall.

21 Q. All right. July 13th, you indicate Sergeant
22 Connell criticized you for something. The
23 document speaks for itself, but I wonder if there
24 was anything else that happened around this

1 incident that you describe in paragraph 144 of
2 your second amended complaint.

3 A. I'm not sure what you're looking for. Again,
4 it's pretty clear what happened and how I felt --

5 Q. I just wondered if there was anything else you
6 wanted to add.

7 A. -- and the players.

8 Q. Yeah, I think it's clear.

9 A. Yeah, I don't know what you're looking for other
10 than what it says.

11 Q. Okay. Was there any write-up or any other form
12 of discipline, even a verbal, other than this
13 verbal questioning out of this incident with
14 Sergeant Galusky?

15 A. No, I didn't receive any write-up. But I don't
16 know if they attempted to go to Rankin. I don't
17 know what happened, you know, at that point, but
18 nothing that I'm aware of.

19 Q. On July 15th, you were admitted to St. Peter's
20 Hospital. And was that your primary care
21 physician? Did he refer -- he or she refer you
22 to St. Peter's? How did you come to --

23 A. I'd like to note that I called in for the first
24 time in my career on July 14, 2013 when I was

1 hired July 8th of 2008. So I think that's
2 important to show that I went all those years
3 without calling in sick.

4 I called my primary care physician, Dr.
5 Fogel, and I explained how I felt and he said, "I
6 want you to go to the ER."

7 And I said, "Well, I don't know what this
8 is. I don't know if it's --" I don't want to go
9 to the ER and look like an idiot for going to the
10 ER.

11 He told me, "If you come here and I don't
12 like what I see, you're going by ambulance to St.
13 Peter's." So that's what happened.

14 Q. And how long were you hospitalized at St.
15 Peter's?

16 A. I think it was three or four days.

17 Q. Did they start you on a medication regimen at St.
18 Peter's?

19 A. Lots of medications, nitroglycerin, lots of
20 tests.

21 Q. Looking at cardiac issues?

22 A. Yes, it was all cardiac issues.

23 Q. And you requested a psychiatric evaluation at St.
24 Peter's?

1 A. I don't know that I requested it. I kept
2 describing the symptoms and when none of the
3 tests worked, they thought maybe it was anxiety
4 or something to look at that, you know, to talk
5 about that. So stress related after describing
6 what I'd been going through.

7 Q. And you have not returned to work since July
8 14th, 2013; correct?

9 A. You're asking me that?

10 Q. Yes.

11 A. Yes.

12 Q. And you filed a 207(c) application. And the
13 process of filing that, your complaint suggests,
14 was unusual or improper. Can you tell me about
15 that?

16 A. I was told that I had to go down to the jail in
17 person and pick up an application. Well, if I'm
18 in the hospital --

19 Q. Who told you?

20 A. Hal Smith, when I called to let him know. If I'm
21 in the hospital at the time when I got -- or just
22 got out of the hospital, I think I was released
23 on the 18th, how can I go to the correctional
24 facility if I'm not feeling well?

1 I thought it was a great burden and kind of
2 ridiculous to ask somebody who's sick to go down
3 there and get it. So when I called one of the
4 union representatives that I trust --

5 Q. Is that Lenny Smith?

6 A. Lenny Smith. And Hal Smith refused to give him
7 the documentation, the application 207(c). And
8 to my knowledge, he ultimately got it from the
9 union.

10 And then as it says, Hal Smith questioned
11 the notary on the paperwork and wanted me to get
12 it done while the notary is done by an attorney.
13 So I'm not sure how -- I didn't go to a bank. An
14 actual notarized attorney. It just seemed like
15 they were giving me a hard time for no reason.

16 Q. And Dr. Fogel is your primary care physician;
17 correct?

18 A. Yes.

19 (Discussion off the record.)

20 BY MR. MARTIN:

21 Q. Other than what we've already talked about with
22 respect to Pat Russo, did you have any other
23 discussions with him about your issues with
24 Patricelli and Mahar and others?

1 A. As part of the 207(c) process, I was interviewed
2 by Pat Russo.

3 Q. All right. And so the issues, did they all come
4 up in the context of the 207(c)?

5 A. I talked about the workplace violence forms which
6 he said he had. I talked about all the issues
7 and all the incidences that had happened within
8 the jail.

9 He told me I needed to relax, don't get so
10 worked up. And he goes "When I'm stressed out, I
11 just get this doll out and I -- you know, this
12 helps me with my stress. I wring its neck." He
13 goes to the closet, he gets out a doll that's
14 about this big -- you're shaking your head.

15 Q. I've seen it, I think.

16 A. I thought it didn't exist.

17 Q. I think I've seen it.

18 A. He takes it by the neck and he goes "When I'm
19 stressed out", he shakes it, goes like this, it
20 giggles, and he thought that was hysterical.

21 Somebody who has PTSD, well, at that point,
22 chronic anxiety, acute stress disorder and
23 depression, those actions to me were not only
24 disrespectful, it was further disregard for

1 anything that I said, felt or experienced over
2 the last however 10 months, whatever it was.

3 So you've seen the doll. I don't think that
4 it was appropriate at a 207(c) interview when you
5 look at what the outcome of the 207(c) was. And
6 he was the Undersheriff of the County Sheriff's
7 Department.

8 Q. Any other discussions with Undersheriff Russo
9 other than what you've already described?

10 A. No.

11 Q. How about Sheriff Mahar? Any other discussions
12 with Sheriff Mahar other than what you've already
13 described?

14 A. Never interviewed or saw Sheriff Mahar that has
15 anything to do with workplace violence. He
16 refused to answer or see me at all other than the
17 February 8th, sorry, meeting.

18 Q. Right, which we've already talked about. After
19 July of 2013, I believe that all of your contact
20 with Tom Hendry was also in writing; correct?

21 A. That is correct. He never offered an interview
22 for the second workplace violence complaint or
23 anything like that.

24 Q. Some letters went back and forth between you two

1 after July; correct?

2 A. I think I sent them all. I don't think he
3 actually sent responses. At this point, I'm
4 sending the letters to everybody, Kathy Jimino,
5 Mahar, Russo, Tom Hendry, and nobody's sending
6 any responses.

7 Q. Your doctor, James Thalmann, did he ever receive
8 any replies of any kind to the faxes, letters
9 that he sent on your behalf to the Sheriff's
10 Department?

11 A. Other than confirmations that his faxes were
12 delivered, no. He never received request for
13 documents either from the Sheriff's Department or
14 Dr. McIntyre.

15 Q. All right. The complaint indicates in paragraph
16 157, if you want to refer to it, there was a
17 letter from Tom Hendry regarding interviews being
18 conducted. Do you recall receiving that letter?

19 A. In August? If you can show me something, show me
20 the letter.

21 Q. I didn't bring it.

22 A. I'm sure I could find it. I don't -- other than
23 what's written there, if it's written there, to
24 me, it's true. But I don't -- I don't remember

1 the...

2 MR. SORSBY: Do you remember receiving a
3 letter from Tom Hendry in regards to your claim
4 that the investigation interviews were being
5 conducted?

6 Q. We don't even have to look at the letter. I
7 mean, the documents speak for themselves. I was
8 just going to use it for a springboard really to
9 other questions to kind of orient us to time.

10 And I wonder if you were aware of any
11 additional investigative interviews were
12 conducted following or around this August 21,
13 2013 time frame.

14 A. Other than what's come out in the limited notes
15 from Tom Hendry in this case, no, I'm not aware
16 of anything.

17 Q. Okay. Jumping down to page, excuse me, paragraph
18 159 of the second amended complaint, that
19 paragraph recites that you received a letter
20 dated October 5, 2013 from Tom Hendry in which he
21 disputes saying that the case -- and I presume
22 he's talking about the workplace violence
23 complaint was closed and that the county had no
24 intention of taking further action.

1 Did he ever say that to you?

2 A. I would like to state that wasn't a letter. I'd
3 like to say that I can provide the recording.
4 That was a voicemail.

5 Q. All right.

6 A. And like I said, I could provide that voicemail.
7 But that voicemail was -- it did happen, it was
8 said. I think that was just an error in writing
9 the complaint. No matter how many times you look
10 at it, you always miss something.

11 Q. The complaint indicates that the union member,
12 Sergeant Lenny Smith, wanted to donate sick time
13 to you and was denied. Do you know if there's a
14 sick bank under the collective bargaining
15 agreement or any kind of past practice that would
16 have allowed union members --

17 A. There most certainly was a past practice. Now,
18 whether or not that was a policy -- and that was
19 not only denied for me but it was denied for
20 other people, for example, like Jimmy Karam, but
21 yet approved for other people. And that went
22 into specifics in documentation and all that, but
23 other people were given sick time. And if we
24 need to produce that, we will. Lenny Smith was

1 denied.

2 Q. And the decision whether or not to allow the
3 donation of sick time rested with the Sheriff's
4 administration, not with the union
5 administration?

6 A. It rested with Jack Mahar.

7 Q. Your complaint talks about -- jump up to 174.

8 MR. SORSBY: 174?

9 MR. MARTIN: Yeah.

10 Q. Your bidding rights, leave accruals and I think
11 that's it under the collective bargaining
12 agreement. And you allege in this case that you
13 were arbitrarily deprived of these rights. I
14 wonder if you can explain to me what is the basis
15 for that.

16 A. I wasn't allowed to bid. The bid came and went
17 and I wasn't sent a bid letter. There's no
18 policy written anywhere in a contract or in
19 Sheriff's Department policy that says because
20 you're out on sick leave or medical leave that
21 you're denied the right to bid your shift.

22 And it also doesn't cover accruals -- it
23 doesn't say you no longer accrue accruals if
24 you're out on sick leave using your accruals.

1 I don't know if that answers your question,
2 but that's where that claim is from.

3 Q. You did. Did you file a grievance over being
4 deprived your bidding rights?

5 A. I know I filed a grievance on the bidding rights.
6 I don't recall if I did one on the accruals but I
7 may have.

8 Q. What was the decision on the bidding rights
9 grievance?

10 A. The two grievances I did file were -- I don't
11 know what they call it.

12 Q. Denied?

13 A. If they weren't affirmed, they were denied.

14 Q. They were not taken to arbitration?

15 A. No. But again, I was already told because I
16 wasn't working -- and I was told way before that
17 by -- and I can't recall her name at the union
18 that because I went after Patricelli that I had
19 no rights with the union and they were going to
20 refuse to represent me.

21 Q. Okay. And this is in the January, 2014 time
22 frame. You were still technically employed at
23 that point; right?

24 A. That is correct.

1 Q. When did your accruals run out, though?

2 A. December 3rd of 2013.

3 Q. And so that was the last time that you received
4 any kind of pay or benefits from the county;
5 correct?

6 A. That is correct. I was getting medical but I had
7 to pay my share out of my pocket, and I would go
8 down to Tom Hendry's office or mail a check to
9 them each month.

10 Q. Okay. As of January, 2014, had a doctor released
11 you to return to work?

12 A. Can you repeat the question?

13 Q. As of January, 2014, had your doctor released you
14 to return to work?

15 A. No.

16 Q. When did your doctor release you to return to
17 some kind of employment?

18 A. He never released me to go back to the
19 correctional facility as a correction officer.
20 He cautiously released me for a job with no
21 demand, an entry level job with no demand, which
22 is where I still struggle to find reasonable
23 employment that will work with my PTSD.

24 Q. I see.

1 A. If he had his choice, he would make me leave
2 where I am now.

3 Q. So you've been released to work with limitations,
4 if that's a fair --

5 A. Correct.

6 Q. When did the doctor first release you to work to
7 something with no demand, as you put it?

8 A. It really wasn't his choice to release me. He
9 would prefer not but I have to pay the bills and
10 provide for my family. And since the Sheriff's
11 Department denied me any benefits, I couldn't --
12 I mean, I made \$62,000 the last year I worked. I
13 had credit card bills, I had a mortgage, I had a
14 car payment. I had to do something. I wasn't
15 getting workman's comp even though, you know, the
16 case was pending at that time. I had to do
17 something.

18 Q. When did you first start applying for jobs that
19 you thought you could do?

20 A. As I previously said, I started looking for jobs
21 and I applied to 127 jobs and I provided those
22 documents to Workman's Comp, so we can get those,
23 in July.

24 Q. But when did you start doing that?

1 A. Applying for jobs?

2 Q. Yeah.

3 A. In July.

4 Q. Of 2013 when you went out or 2014?

5 A. No; 2014.

6 Q. Oh, okay.

7 A. My intention was always to go back to the jail.

8 (Pause in the proceedings.)

9 A. Remember, the 207(c) decision is still
10 outstanding in January.

11 Q. Right.

12 A. So I'm still waiting to go back or secure if I'm
13 going to get benefits when I applied in July of
14 2013. It's January of 2014, and I still don't
15 know.

16 Q. Right. It was shortly after that you got the
17 decision; right?

18 A. July 15th of 2014.

19 Q. Okay.

20 A. Which, by the way, 207(c) in some cases takes
21 weeks. In my case, it took from July of 2013 to
22 January of 2014. That's an excessive amount of
23 time.

24 Q. Let's jump up to June of 2014 when you receive

1 your notification regarding termination.

2 A. Can you reword that question or repeat that
3 question? Because it wasn't a notice of
4 termination.

5 Q. That you would be terminated. I'm looking at
6 paragraph 182.

7 MR. SORSBY: The date's different than what
8 your -- you said 24th.

9 Q. Did I? June 23rd letter. And it indicates that
10 you need to request a due process hearing and
11 that the one-year anniversary is coming up on
12 July 15th. Do you recall that?

13 A. I recall that. I recall that was the same day I
14 was notified that I won my workman's comp case,
15 that my injury was caused by my employment,
16 specifically by the actions of Anthony
17 Patricelli. So I received those letters on the
18 same day.

19 Q. Did you have any contact with anybody at the
20 Sheriff's Department as a result of the June 23rd
21 letter from Sheriff Mahar?

22 A. I remember the letter was sent certified. So
23 actually, the letter was sent the 24th but I
24 didn't get it -- what is the deadline on the

1 letter? I think it's July 1st. I didn't get it
2 til the day before, because I had to go down to
3 the post office and get it. So I -- the only
4 person I contacted was Matt Ryan with the union
5 because what was I going to say to the Sheriff's
6 Department? You know...

7 Q. And you requested representation from Matt?

8 A. I did, reluctantly.

9 Q. Did they do anything?

10 A. He sent a letter saying that I'm requesting a due
11 process hearing.

12 Q. Okay. And it was scheduled for August 14th;
13 correct?

14 A. That's correct.

15 Q. And who attended the August 14th due process
16 hearing?

17 A. Oh, I think Goldberg was the hearing officer and
18 myself and Matt Ryan, Pat Russo and Ed Bly
19 (phonetic), I think is his name.

20 Q. All right. And you indicate in your complaint
21 that you thought it was a due process hearing
22 which implies that it turned out to be something
23 else. Can you -- am I right on that?

24 A. Most of the meeting took place out in the hallway

1 between Goldberg and Matt Ryan and I was not
2 present. I was not allowed to hear what they
3 said. I asked you're my attorney, you represent
4 me, I'd like to hear what they discuss. I was
5 told I don't have a right to do that.

6 I wanted to present evidence. I was not
7 allowed to present evidence. I presented the
8 Workman's Comp decision. They said they didn't
9 care because they were appealing it. And I was
10 asked one or two questions, could I come back to
11 work, and I said not with my current disability,
12 not with my current situation until I'm better,
13 and that was it.

14 It wasn't a due process. Due process is you
15 hear -- I mean, my limited experience of what due
16 process is you listen to evidence, you take in
17 evidence, you ask the person questions. It was
18 none of that at all.

19 And I don't understand why the county labor
20 attorney was the one running the hearing. It
21 should be somebody that's a neutral party in my
22 mind, not the guy who wrote the termination
23 letter or the notice you may be terminated if you
24 don't do this.

1 I think I asked questions about why I was
2 being terminated for being out for 12 months on a
3 non-work related injury when the Workman's Comp
4 decision was my injury was work related.

5 Q. Following the -- I'll call it a due process
6 hearing, you did not receive notification until
7 October of the determination?

8 A. That's correct.

9 Q. I've seen the letter, it speaks for itself. Did
10 you have any discussions with anybody at the
11 county about the October, 2014 determination
12 letter from Pat Russo?

13 A. I sent letters to the Civil Service Commission.
14 As a matter of fact, I requested a meeting in
15 October. And I also had a meeting, I think, in
16 March where I brought my attorney with me, Mr.
17 Sorsby, to discuss what had happened with the
18 Civil Service Commission.

19 Q. Okay. And who was present from the county at
20 that meeting?

21 A. From the Civil Service Commission?

22 Q. It was in front of the -- it was the full
23 commission?

24 A. It was Dan Moran and one other lady. There's

1 only three members and one of them -- I think the
2 O'Malley lady had excused herself from it because
3 she knew my mother. But she didn't excuse
4 herself from any conclusions of determinations
5 that were made in the future. She just excused
6 herself from that meeting, and we met with them.

7 Q. Okay. And what were you able to present in terms
8 of information to the Civil Service Commission?

9 A. I mean, off the top of my head, I presented the
10 three letters I received from the Sheriff's
11 Department, the Workman's Comp letter. I know
12 that there was some discussion about the law and
13 ADA and I don't remember all the details. That
14 was a long time ago.

15 Q. How long were you able to spend with the Civil
16 Service Commission at this meeting?

17 A. I don't know the exact time. More than an hour.

18 Q. Okay. And was this a part of the appeal process
19 in front of the Commission?

20 A. There is no appeal process.

21 Q. Okay.

22 A. To my knowledge, there's nobody ever sent me a
23 letter that says you can appeal this by doing
24 this. This was all action I took.

1 Q. If there is -- strike that.

2 On July 3rd, 2015, the Commission issued a
3 letter to you indicating that there was no change
4 in the county's position, essentially. And I
5 guess my question is: If there was no appeal
6 process, were you surprised to receive the July
7 3rd letter from the Civil Service Commission?

8 A. Do you mean no appeal process from the Sheriff's
9 Department is what I was specifically talking
10 about.

11 Q. Oh. I had asked about the Civil Service
12 Commission and whether or not your meeting with
13 them was part of an appeal process of the Civil
14 Service Commission.

15 A. The Civil Service Commission hadn't made any
16 determination at that point, so I was going to
17 them for help with the Sheriff's Department.

18 Q. I see.

19 A. The answer to me was there was no appeal process
20 to the Sheriff's Department terminating me.

21 Q. I gotcha.

22 A. But to my understanding, the Sheriff's Department
23 doesn't ultimately terminate you; the Civil
24 Service Commission does. They, the Sheriff's

1 Department, makes a recommendation to the Civil
2 Service Commission. So I was going, in my mind,
3 to the source of who approved that determination
4 and that's according to documentation that we've
5 already submitted. So your question, I think,
6 was: Was I surprised to get the July 3rd letter?

7 Q. Yeah.

8 A. Well, they're saying that there was no violation
9 of my due process rights, whatever those rights
10 are. There's no written policy or contractual
11 policy for what the due process exists; what is
12 that? Due process is different for everybody,
13 right? I don't know. There's no policy at the
14 Sheriff's Department or in our contract that says
15 what the due process -- what my right is.

16 Q. Just for the record, what process is due under
17 due process? That's a whole year of law school.

18 A. The letter said I can request reinstatement
19 pursuant to Civil Service Law. So that's exactly
20 what I did. I'll just end right there.

21 Q. I was going to ask about that. You did request
22 reinstatement. And what happened following your
23 request?

24 A. I believe they required me to show that I no

1 longer had a disability and could come back to
2 work.

3 Q. Without restriction?

4 A. No; that I no longer had a disability. Now, I
5 don't have the exact letter in front of me and I
6 don't know if we put it in evidence. I'm sure we
7 can --

8 MR. SORSBY: Let's just go off the record.

9 MR. MARTIN: Sure.

10 (Discussion off the record.)

11 BY MR. MARTIN:

12 Q. We've had an off-the-record discussion. Did you
13 want to clarify your answer or add to your
14 answer, not that it was unclear before?

15 A. I just want to figure out how to get into it.
16 Sorry.

17 Q. I think the original question was: What happened
18 when you requested reinstatement?

19 A. Okay. The letter -- at the time I asked to be
20 reinstated, according to Civil Service Law
21 Section 73, I asked for an accommodation that I
22 could come back to work, I'd like to be
23 reinstated but I would like to have an
24 accommodation. And they sent a response back

1 saying that I needed to show that I had no
2 disability in order to come back to work.

3 MR. SORSBY: And if I may, Mr. Martin --

4 Q. And that was a written --

5 A. I can further clarify.

6 Q. Why don't you go on with --

7 A. We can further clarify if we look at the actual
8 documents that -- and I don't want to mislead
9 anything or it's like you said, the documents
10 speak for themselves.

11 Q. Yeah, I don't like to go over them and just have
12 people read them and say here's what it says.

13 A. I was told -- after asking for an accommodation,
14 I was told that no accommodation will be given,
15 that I have to show that I have nothing wrong
16 with me in order to come back to work.

17 MR. SORSBY: Mr. Martin, can I ask a quick
18 follow-up question on this?

19 MR. MARTIN: Certainly.

20 MR. SORSBY: Mr. Gorman, did you ever receive
21 an inquiry from the Commission indicating that
22 they would provide an independent medical
23 evaluation?

24 THE WITNESS: No.

1 MR. SORSBY: Okay.

2 MR. MARTIN: I want to take just a couple
3 minute break. I think we're close to the end.

4 (A short break was taken.)

5 BY MR. MARTIN:

6 Q. Other than what we've already talked about, have
7 you had any other interactions or conversations
8 with Anthony Patricelli?

9 A. No.

10 Q. Certainly not after he was put out of work on in
11 June of 2014 -- 2013, I should say, you haven't
12 talked to him since then?

13 A. No.

14 Q. Have you had any discussions with your sister Kim
15 about Anthony Patricelli since June of 2013?

16 A. My relationship with my sister is not -- has
17 suffered a great deal because of the events that
18 took place in that time frame and we're not as
19 close and we don't speak as often. We certainly
20 don't -- when we do speak, we don't speak about
21 him. As a matter of fact, I haven't seen my
22 nephew in years.

23 Q. Is he still living with Mr. Patricelli or down
24 with your sister or --

1 A. I believe he's still living with his father.

2 Q. Okay. If I understood your testimony, you never
3 actually had a chance to talk with Kathleen
4 Jimino at all about this situation; correct?

5 A. She never returned any calls, she never saw me
6 the multiple times I went to her office, no,
7 that's correct. She never answered any letters.

8 MR. MARTIN: All right. I don't have any
9 other questions.

10 EXAMINATION BY COUNSEL FOR PLAINTIFF

11 BY MR. SORSBY:

12 Q. John, I just have some quick follow-up questions.
13 John, you testified earlier that after no longer
14 working at the jail, you had obtained employment
15 at, among other places, the post office and
16 Cargill and that with your PTSD, you were not
17 able to continue at those jobs.

18 Can you tell us what about Express Scripts
19 has allowed you to remain at that job compared to
20 these other jobs?

21 A. You mean Beacon Health?

22 Q. Yes, Beacon Health. I'm sorry.

23 A. The only reason I'm still there against my
24 doctor's wishes, because it's no different than

1 Express Scripts, is that I have to have an
2 income, I have to work with Workman's Comp,
3 because it will directly affect that case; and
4 not to mention it will affect my family.

5 So as I testified to before, I take all of
6 my Xanax, four pills, during that eight-hour
7 period in order to survive, in order to make it
8 through those eight hours.

9 Q. And speaking of those medications, are there --
10 other than the medications, are there other
11 things that the doctors have prescribed for you
12 to do to help you with the PTSD?

13 A. There's mindful meditating. There's getting back
14 into group activities and going back into
15 activities. But those things are easily said and
16 done when you're fighting the symptoms and
17 fatigue and taking Xanax all day. I don't know
18 if you've experienced Xanax.

19 Q. No.

20 A. But it's short acting. It lasts three and a
21 half, four hours, if you're lucky. And all the
22 symptoms come back like a brick fell on you, and
23 you have to take that next pill. So when you go
24 home and you no longer have that next pill

1 because you used the four that you're allowed to
2 take, it's a struggle to just, you know, help
3 make dinner and have a positive interaction with
4 your children and help them with their homework
5 and then, you know, do general life stuff.

6 Does that answer your question?

7 Q. Yes. I'd like to just talk about that briefly as
8 well. Can you tell us the symptoms you
9 experienced from the October period of 2012 up
10 until the time you were first diagnosed with
11 PTSD, symptoms related to the events that
12 unfolded at the jail?

13 A. Sure. It's built up like a brick wall. Hands
14 shaking was the first thing. Severe headaches.
15 Chest heaviness, almost like you're having a
16 heart attack or somebody's sitting on your chest.
17 Fatigue. Insomnia. Not being able to perform
18 sexually because, one, you have no interest and,
19 two, you're just not physically able to do it.

20 All of those things built to the point where
21 I couldn't -- one day, while I was doing rec on
22 July 13th maybe, I couldn't stop myself from
23 crying, I was emotional and that certainly -- and
24 physically shaking. It's not a state you want to

1 be in when you're in charge of inmates. It makes
2 you look very vulnerable.

3 Q. And when was this, the rec you said? When did
4 this incident occur?

5 A. You said starting in October and I kind of named
6 each one as it built. And the last thing that
7 led me to being suicidal and having all that
8 emotional stuff was July 13th. I called in on
9 July 14th, because I couldn't function. July
10 15th, I went to my primary and went to St.
11 Peter's. That's kind of the progression of
12 symptoms that I experienced.

13 Q. And before you went to St. Peter's, were you on
14 any medications?

15 A. No, nothing at all. Well, I shouldn't say that.
16 You know, Mucinex or Zyrtec or something like
17 that.

18 Q. Any medications --

19 A. Over the counter stuff. Nothing prescribed by a
20 physician.

21 Q. All right.

22 MR. MARTIN: He did say he took
23 migraine medication --

24 THE WITNESS: Not really. Not prior to the

1 October date.

2 MR. MARTIN: Oh, okay.

3 A. You said prior to the October date, correct? Is
4 that what you meant?

5 Q. Right. Well, prior -- I'm saying what, if any,
6 medications were you on from the time that you
7 went into St. Peter's to the October 8th
8 incident?

9 A. Prior to, nothing. Occasional headache but
10 nothing on a daily basis that I take, no.

11 Q. I'm talking about the same period again. Did one
12 of your symptoms include an effect on your
13 sleeping patterns?

14 A. Yeah. I would stay up all night, even when I was
15 working, you know, go to work and then sleep for
16 four hours and I had nights where I stayed up all
17 night. That hasn't changed. Even taking a sleep
18 aid, sometimes it only works for four hours and
19 then you're up for two nights.

20 Q. And just to clarify, is that a side effect of the
21 medication or is that a symptom of PTSD?

22 A. That's a symptom of PTSD, because you can't turn
23 your brain off. Mr. Martin asked me all these
24 questions about all these events. Some of those

1 events play over and over and over in my head and
2 never stop and I can't turn them off.

3 Q. Okay. Can you tell us what you understood Master
4 Sergeant Patricelli's powers at the jail to
5 include?

6 A. I understood and saw that he reported to the
7 Sheriff only, that he oversaw anything that
8 happened in the correctional facility. He had
9 power over the captain, he had power over Chief
10 Vibert when she was there. If he didn't like the
11 way something was run or some decision was made
12 in the facility, he would immediately go over to
13 see the Sheriff if the Sheriff was there and
14 either a phone call would be made, that policy or
15 that practice would be stopped or somebody was
16 called over to the Sheriff's Department and it
17 was addressed.

18 Q. Did you know of any limitations to his authority
19 and power at the jail?

20 A. I don't know of any limitations, but I know he
21 could go over there and walk into the Sheriff's
22 office and see him any time he wanted.

23 Q. Okay. What was the basis for this broad power,
24 if you know, if you understand? Do you know

1 where he derived this power from?

2 A. Yeah. I mean, I went to the Bronx Zoo once with
3 Patricelli and I don't remember the year. It was
4 prior to October of 2012, I'd say, way prior to
5 that, and he liked to talk, and it's always good
6 to listen. He would say that the Sheriff trusted
7 him; that when things weren't going right, he
8 wanted to know it was his job and because he
9 built that trust up over the years that he could
10 do anything he wanted and the Sheriff would
11 believe him and so he had unlimited access to
12 him.

13 Q. And where was he in your chain of command, at
14 least as you understood it?

15 A. When I got hired, I would say he wasn't in my
16 chain of command but through my experiences, in a
17 chain of command in a correctional facility, he
18 was above the chief and the captain and any
19 sergeant in there, any lieutenant.

20 Q. Just so I understand, that is what it turned out
21 to be. But based on his rank, where should he
22 have fallen in the chain of command vis-a-vis
23 you?

24 A. Right above a sergeant, below the first sergeant,

1 below the lieutenant, below the captains. So you
2 have a sergeant and master sergeant.

3 Q. So under normal circumstances, you didn't report
4 directly to him?

5 A. I never reported to him directly, but he had a
6 direct influence and effect on me.

7 Q. And you had mentioned you were concerned about
8 Patricelli based on things in the past. And I
9 don't know if you went into what specific thing
10 in the past involving Patricelli were you aware
11 of that made you concerned?

12 A. The whole incident when there was a party after
13 work and they all went to the bar down the street
14 from the jail and he had a disagreement with an
15 officer. And the documents are in evidence, I
16 believe. He had a disagreement with him and he
17 went home, got his gun and came back and put that
18 gun up to that co-worker's head.

19 Q. How did you become aware of that?

20 A. Initially, through rumors, then through Jimmy
21 Karam who was the internal affairs investigator
22 and then, ultimately, through the actual
23 documentation.

24 Q. And when did you receive the documentation?

1 A. I would say the documentation was recent but the
2 other information --

3 Q. You had known?

4 A. For a while. I had known prior to the October
5 incident. Not to mention, you know, what I saw,
6 his, you know, unlimited power in the jail over
7 other people. He had the ability to get people
8 in details. He had the ability to take people
9 out of details.

10 Q. And you had mentioned threats to your sister. Do
11 you recall what specific threats were made by him
12 against your sister?

13 A. My sister will refuse to testify out of fear for
14 her son and their relationship, but she was
15 physically, mentally threatened by Patricelli and
16 threatened with, to my knowledge, a firearm.

17 Q. By Patricelli?

18 A. By Patricelli. But again, she won't testify.
19 She'll tell us, you know, family members, but she
20 won't do that, you know, in court because she's
21 afraid like normal domestic violence victims. I
22 think she was a domestic violence victim.

23 Q. I just want to stay on the subject for a little
24 bit longer. Tell us, if you can, and you may

1 have gone over this, the relationship that you
2 had with your sister before October 8th, 2012.

3 A. What kind of relationship did I have?

4 Q. Yes.

5 A. Good relationship. We went to the Bronx Zoo a
6 lot. We went shopping. We would do lots of
7 things on the weekend. My sister would always do
8 stuff. She'd always have her (sic) nephew and
9 just her. It would never be with Patricelli,
10 because he always had to work or go to the lodge
11 with friends, with the Sheriff, never doing stuff
12 with her. So we did a lot of stuff together.
13 Went to New York City. We had a good
14 relationship.

15 Q. Can you tell us how your relationship changed
16 after October 8, 2012?

17 A. What it is now?

18 Q. Well, tell us what -- after October 8th, 2012,
19 tell us how, if at all, the relationship changed.

20 A. I think that what I know for her, a lot of
21 threats happened when she was leaving, lots of
22 stress happened for her when I was filing, you
23 know, criminal charges or complaints against him,
24 because he would go after her and tell her you

1 gotta control your brother and things like that.

2 When he couldn't get to me, he'd go to her.

3 When he couldn't get to her, he'd go to me and it
4 was back and forth like that.

5 Q. So qualitatively, how is the relationship now
6 with your sister compared before October 8th,
7 2012?

8 A. I think it's been about three months since I even
9 talked to my sister and we always talked every
10 weekend or did something and we haven't done
11 anything. We haven't gone to the City. We
12 haven't gone to the zoo. We haven't done that in
13 years.

14 Q. So based on that, is it your belief that the
15 events that unfolded at the jail after October 8,
16 2012 going forward affected the relationship with
17 your sister?

18 A. Directly and extremely, yes.

19 Q. And specifically, do you believe the conduct of
20 Anthony Patricelli affected the relationship you
21 had with your sister after October 8th, 2012?

22 A. I do, yes.

23 Q. Also, you had mentioned before that Patricelli
24 was on an ESU team. Do you know what ESU stands

1 for?

2 A. I know it's on what's called the cert team, which
3 is a team that goes into the jail and squashes
4 any inmate uprisings. What that stands for,
5 E-S-U, again, I don't know. I apologize.

6 Q. You answered. If you don't know, we'll find
7 out --

8 A. I don't know.

9 Q. -- on Monday, potentially.

10 A. They're a group that goes outside and handles
11 emergency situations in the community. My
12 brother was on that as well. I'm sorry, I don't
13 know what it means.

14 Q. That's all right.

15 A. Emergency something. I don't know.

16 Q. Earlier, you had testified that your demotion
17 from provisional sergeant, you believe, was in
18 retaliation for the -- I believe you had stated
19 it was the events -- it was out of retaliation by
20 Patricelli. But do you also believe it had
21 anything to do with your refusal on February 8th,
22 I believe, 2013, to offer evidence against Ruth
23 Vibert?

24 A. I think it was a collective part of Patricelli

1 and Mahar acting as a unit. I believe, because I
2 wouldn't support Patricelli and his claims, I was
3 directly disobeying the Sheriff and disobeying
4 and it was well-known that not doing what the
5 Sheriff wanted would cost you. And it cost me my
6 stripes.

7 Q. Okay.

8 A. It is quite known that Mahar would yell and
9 scream and go off on people when things were not
10 done exactly the way he wanted them.

11 Q. Okay. You also testified earlier in form or
12 substance that you believe your actions caused
13 the termination of Ruth Vibert. Can you explain
14 why you believe Ruth Vibert was terminated?

15 A. I believe up until the point where that February
16 15th incident happened, Ruth Vibert did a good
17 job. I think that we've heard testimony and saw
18 documents that she did a good job. There was no
19 negative, to my knowledge, any negative reports
20 out there that she wasn't doing a good job.

21 And when she refused to shred the documents,
22 you know, that she tried to hand in on February
23 25th, she was terminated on February 27th. That
24 is a pretty interesting coincidence to me or

1 not -- it's not a coincidence; it's a direct
2 result of her actions or lack of.

3 Q. Okay. So just to be clear, you don't necessarily
4 believe that she was terminated for anything that
5 you did wrong?

6 A. Well, I didn't do anything wrong. I just refused
7 to let it go.

8 Q. Let what go?

9 A. The workplace violence. Because I wrote the
10 statement, I handed it in, I had a discussion
11 with her on the 19th during that meeting and I
12 didn't let it go. I didn't let it just get swept
13 under the rug. I further pushed it with the
14 workplace violence report.

15 Q. Did there come a time when you became aware that
16 Vibert was told by Sheriff Mahar that she should
17 shred your workplace violence complaint, that
18 Gorman's -- something to the extent that
19 "Gorman's F'ing through"?

20 A. Yes. Ruth Vibert told me a couple days after she
21 was terminated that this is what the Sheriff
22 directed her to do, that she was to shred the
23 documents, "Gorman's F'ing done, you see to it."

24 And she said to me, "I can't go after an

1 innocent person. It's nothing I can do. You did
2 nothing wrong. I cannot go after an innocent
3 person." She just kept repeating that.

4 Q. Now, earlier, we had -- Kathy Jimino had come up
5 in the discussion as to whether or not you were
6 aware if she had any conversations with Mahar.
7 Have you -- are you aware of any evidence -- have
8 you had a chance to see any evidence, whether
9 submitted by the defendants or in your own
10 possession, indicating that Ms. Kathleen Jimino
11 was aware of your workplace violence complaints?

12 A. Well, we received quite a few letters that are
13 stamped by her office and in her handwriting.
14 She's written not to me directly, to Tom Hendry.
15 And we've seen that kind of evidence. Is that
16 what you mean?

17 Q. Yes. Have you reviewed evidence like that
18 recently?

19 A. Yes.

20 Q. Okay. We might come back to that. Do you recall
21 was that evidence that you had in your possession
22 or was provided to you from the defendants?

23 A. That was defendants provided evidence.

24 Q. Just to be clear as well, Sheriff Mahar was not

1 at the due process hearing?

2 A. That is correct.

3 Q. Okay.

4 A. He was the one that made the sole decision --

5 Q. Is it also --

6 A. -- supporting the policy.

7 Q. And is it also your understanding that he
8 reviewed the transcript from the hearing as it
9 were with Undersheriff Russo before that
10 determination was made?

11 A. That was what the letter stated that I received
12 from -- either from Pat Russo, I believe.

13 Q. Okay. That would be -- you're referencing
14 Exhibit 8?

15 A. No, that's not it.

16 Q. Okay. That's okay. We don't have to look for
17 it, that's fine.

18 A. Pat Russo was directed to send a letter on behalf
19 of Jack Mahar and, in that, it stated that the
20 due process transcript was reviewed by Jack Mahar
21 in making his determination.

22 MR. SORSBY: Off the record.

23 (Discussion off the record.)

24 BY MR. SORSBY:

1 Q. Mr. Gorman, I'm going to hand you what's in a
2 binder here. I'll let you take a look at it and
3 tell me if you recognize what's in this binder.

4 A. It's the 207(c) determination from the Sheriff's
5 Department.

6 Q. Just for identification purposes, can you
7 indicate the date on it?

8 A. The date of the first page is January 15, 2014.

9 Q. And who is it to?

10 A. It's to Matt Ryan, Council 82, from Pat Russo,
11 Undersheriff.

12 Q. And it's regarding whose name?

13 A. My name, John Gorman.

14 Q. All right. And let's go ahead and turn to the
15 second page. And just tell us what the title is
16 under "regarding".

17 A. "Determination/GML 207(c) application".

18 Q. All right. And is there a title at the top of
19 the document?

20 A. "Memorandum".

21 MR. SORSBY: I'm going to go ahead and have
22 this marked as an exhibit which would be --

23 MR. MARTIN: C. These are A and B. Just
24 attach it to the transcript when we get them.

1 MR. SORSBY: Okay, let's do that.

2 (Defendant's Exhibit C was marked for
3 identification.)

4 MR. SORSBY: We can go on the record that
5 what's been marked as Exhibit C is in attorney for
6 plaintiff's possession and I'll take sole
7 responsibility for it. Do you want to do that?

8 MR. MARTIN: Sure.

9 MR. SORSBY: I will not lose it. I'll scan
10 it to you.

11 BY MR. SORSBY:

12 Q. So now that we've had this marked for
13 identification as Exhibit C, can you -- so do you
14 understand that this was the -- what do you
15 understand this to be?

16 A. I understand this to be the investigation and
17 determination of Jack Russo's -- Sheriff Jack
18 Mahar's, excuse me, decision in my 207(c) case.

19 Q. Okay. And do you know -- and have you read
20 through this before, this document?

21 A. Many times, yes.

22 Q. All right. And do you know if it includes the
23 Worker's Compensation determination?

24 A. It does not.

1 Q. All right. And do you know who conducted -- who
2 was responsible for conducting this
3 investigation?

4 A. According to policy, it's supposed to be the
5 sheriff.

6 Q. Okay. And then who actually conducted the
7 investigation?

8 A. It says Undersheriff Pat Russo is designated by
9 the Sheriff to make the determination in this
10 matter.

11 Q. Okay. And you said that you don't believe
12 this -- well, having reviewed this exhibit, you
13 did not see anywhere where the Worker's
14 Compensation was included in the actual
15 determination?

16 A. The Workman's Compensation was not included. Not
17 only that, my application for 207(c) was, because
18 of workplace violence --

19 Q. Okay.

20 A. -- not, one, sustained as to work-related stress,
21 work-related stress, workplace violence, threats,
22 retaliation, work assignments. It doesn't
23 contain any workplace violence document -- not
24 one workplace violence complaint or document is

1 included in this folder.

2 Q. Specifically -- and again, there's been a number
3 of workplace violence complaints filed as
4 exhibits in the depositions in this case. None
5 of those were included in this decision?

6 A. There are two, February 25th of 2013 and July
7 15th of 2013.

8 Q. Okay.

9 A. Those two are the only two workplace violence
10 complaints and neither of those are in here or
11 any of the incident reports. And the nature of
12 the injury that I state in my application is
13 directly related to stress related to retaliation
14 due to workplace violence.

15 Q. Okay. And do you know if you independently
16 offered these documents to Undersheriff Russo?

17 A. I certified mailed them to Tom Hendry, Kathy
18 Jimino, Jack Mahar, Pat Russo. I further on the
19 date in June in 2013 when I was interviewed by
20 Pat Russo witnessed those workplace violence
21 documents from February on his desk.

22 Q. Okay.

23 A. So I know that he had them in his possession.

24 Q. And did you submit the Worker's Compensation

1 decision to Mr. Russo?

2 A. I submitted the Workman's Compensation findings
3 at the due process hearing.

4 Q. Okay, at the due process hearing.

5 A. And it's mentioned in the transcript. I don't
6 know if it was included as evidence if they
7 accepted it or not, but I certainly attempted to
8 and was mentioned in there.

9 Q. Okay.

10 A. Pat, can I add something?

11 Q. You have something else to say?

12 A. Well, I just wanted to talk about the limited --
13 this report was done in January 15th of 2014.

14 Q. Which report, John?

15 A. The 207(c) findings.

16 Q. Okay, yes.

17 A. No medical documentation was requested from Dr.
18 Thalmann even though part of my application was
19 signing a release for information. But the only
20 information from Dr. Thalmann or from a doctor
21 included in this was one letter from August of
22 2013.

23 Q. Okay.

24 A. So there were a lot of documents which we've

1 submitted into evidence from Dr. Thalmann talking
2 about my condition, but none of them were
3 included in his investigation or his findings.

4 Q. And do you know whether or not they were
5 provided? Did you or Dr. Thalmann send those
6 documents?

7 A. To my knowledge, Dr. Thalmann sent them to
8 Workman's Comp and to Rensselaer County upon my
9 request --

10 Q. Okay.

11 A. -- when I filled out the application for the
12 workplace violence or the 207(c). So I guess the
13 question is if my turning in this application on
14 July 18 of 2013 and their findings aren't done
15 until January, what's their obligation? They
16 only reviewed August 1st of 2013. You have
17 September, October, November, December, half of
18 January. You have four and a half months of
19 medical documentation that could have been
20 reviewed to make their decision, which they did
21 not review or request or approve or anything.

22 Q. Okay. And were any inquiries sent to you for
23 further medical documentation during that
24 process?

1 A. Other than meeting with Pat Russo the one time,
2 no contact or inquiries were made to me or my
3 doctor's office, to my knowledge.

4 Q. Do you know if a medical authorization was
5 requested by Dr. McIntyre regarding this?

6 A. Yes.

7 Q. Okay. Who was the authorization of these
8 documents from?

9 A. Can you be --

10 Q. Sure. A medical authorization was provided by
11 Dr. McIntyre to you?

12 A. To me to release information to him and
13 Rensselaer County from Dr. Camperlengo and Dr.
14 Thalmann. And I saw him in October 29th of 2013
15 and December something. I don't know the exact
16 date, December of 2013. So...

17 Q. Okay. And did you have subsequent conversations
18 with your doctors to ensure that those documents
19 were sent or do you have any information that
20 would tell you that they were sent?

21 A. I think that included in the evidence are some
22 faxes that show that the information was sent to
23 Rensselaer County.

24 Q. All right.

1 A. I'd have to review Dr. McIntyre's records again
2 to show that he received them.

3 Q. Right, no problem. Other than that other medical
4 documentation that we've been discussing, are you
5 aware of any other information that wasn't
6 provided to Dr. McIntyre by the Sheriff in order
7 for him to make a determination of 207(c)?

8 A. In the back is Dr. McIntyre's findings and Dr.
9 McIntyre lists the records that he reviewed. He
10 reviewed clinical records from Dr. James
11 Thalmann. He doesn't include dates. He included
12 clinical records from Camperlengo. He included
13 Rensselaer County performance appraisals, report
14 from 3/14 supporting documents from Officer
15 Gorman, workplace violence complaint
16 investigation findings.

17 I'm not sure what that means, because the
18 only thing in here that has to do with workplace
19 violence is Hal Smith's finding that he reviewed
20 my complaint and that my -- and video
21 surveillance of the facility and that my
22 complaint -- "I find your complaint unfounded".
23 That's the only reference to workplace violence.
24 So I'm not sure if --

1 Q. When you're saying it's the only reference, are
2 you saying it's the only reference in that
3 decision?

4 A. It's the only reference from that decision, yes.

5 Q. To workplace violence?

6 A. Correct. And then preemployment psychological
7 evaluation. There are, as we know from this
8 case, probably 50 documents that could have been
9 reviewed by Dr. McIntyre that were not included
10 in this finding.

11 Q. Okay.

12 A. The date he saw me or I saw him was December 12th
13 of 2013.

14 Q. Do you know what the requirements are for 207(c)
15 in terms of what type of investigation the
16 Sheriff's supposed to engage in before denying
17 benefits?

18 A. A general response to you without reviewing the
19 policy that's in evidence is that he's supposed
20 to review any evidence that is available or has
21 been submitted or can be obtained by him. But he
22 has sole discretion to decide what's included in
23 the investigation.

24 Q. Okay.

1 A. There's quite a -- you know, I think it's a
2 two-page long policy contract.

3 Q. And when you got the medical authorization from
4 Dr. McIntyre -- when did you receive that? Was
5 that when you went for the evaluation?

6 A. I signed it on October 29th of 2013 and it had to
7 be an unlimited authorization, meaning he wanted
8 access to every single thing. As a matter of
9 fact, the reason why there's such a big
10 difference between October and December and the
11 dates, according to him, was my doctor refused to
12 turn over handwritten notes, because the general
13 response to any inquiries, legal response to any
14 inquiries of medical information is typewritten
15 letters and status updates, not doctors'
16 handwritten notes.

17 So Dr. Thalmann was not willing to release
18 them, but he ultimately did release my entire
19 medical file prior to December 12th to Dr.
20 McIntyre.

21 Q. And you know this because?

22 A. I had a discussion with Dr. McIntyre in length
23 about it or, excuse me, Dr. McIntyre and Dr.
24 Thalmann in length about it.

1 Q. These documents listed in the 207(c), the records
2 that apparently Dr. McIntyre reviewed, did you
3 receive a request for documents other than
4 medical documentation from Dr. McIntyre?

5 A. Did I receive any request from Dr. McIntyre? No.

6 Q. Okay.

7 A. He didn't request any from me.

8 Q. Where did you understand these documents to have
9 been received from?

10 A. The first two that say clinical records from
11 James Thalmann, and Camperlengo, directly from --

12 Q. Specifically, the Troy Police report, the
13 workplace violence complaint.

14 A. The rest of those came from the Sheriff's
15 Department. They are the only people that had my
16 performance ratings. I didn't bring them with
17 me. By the way, the two interviews that Dr.
18 McIntyre conducted were recorded by me and can be
19 turned over.

20 Q. Okay. Just as a follow up, when -- can you tell
21 us what role -- so there was -- let me back up.

22 When the Sheriff denied your 207(c)
23 benefits, did there -- was there an appeal
24 process to that of any kind?

1 A. There is no appeal process.

2 Q. For 207(c)?

3 A. For 207(c).

4 Q. All right. Does an arbitrator get involved in
5 any way?

6 A. Well, I guess -- yeah, I guess there is. I
7 apologize. There is some action through the
8 union and they did call an arbitrator, but the
9 arbitrator solely looks at did the Sheriff follow
10 the policy, the contract that's written, not the
11 findings.

12 Q. Okay.

13 A. How the findings were come by, for lack of a
14 better phrase.

15 Q. And just -- okay. So as far as you know, they do
16 not substantively analyze whether or not the
17 determination was correct?

18 A. That is correct. The arbitrator -- Dr. Thalmann
19 came and testified for five or six hours and Ruth
20 Vibert came and testified -- and he ruled that
21 according to our contract, none of that was
22 admissible, because the Sheriff has sole
23 discretion on what is put in here, not what facts
24 are available or information available, what he

1 decides he wants to put in here.

2 Q. The final point on this: What was the
3 determination of the Sheriff in regards to
4 207(c)?

5 A. That I wasn't entitled is the general...

6 Q. Do you know why he's saying you were not entitled
7 to 207(c)?

8 A. "Based upon Dr. McIntyre's assessment, based upon
9 comprehensive review and issues raised by Officer
10 Gorman's application and documents submitted to
11 support thereof...concluded that the officer may
12 have a psychological issue, they are not related
13 to the performance of his duties. Based upon the
14 foregoing, Claimant's application for 207(c)
15 benefits is denied."

16 Q. John, we had discussed earlier a situation in
17 which you were challenged by Captain Smith
18 regarding the complaint and you were arguing the
19 policy supported your actions. And Captain Smith
20 said he couldn't help you because it was being
21 pushed by Patricelli.

22 Do you recall that?

23 A. Are you talking about the write-up that had to do
24 with the signing of a firearm log by Sergeant

1 Maselli?

2 Q. Yes.

3 A. There may be now but, at the time, there was no
4 policy to dictate that log. That log was just
5 something they made up to double check and that
6 when I went to him and said, "There's no policy
7 on training", you know, "I don't feel that I
8 should be written up," he said, "There's nothing
9 I can do; that Patricelli is pushing this and I
10 have no control over it, nothing -- I can't help
11 you."

12 Q. Okay. Earlier, we discussed log entries and that
13 Sergeant Maselli was helping Patricelli by
14 checking your logs.

15 What are your -- can you just tell us
16 quickly what the log entries are?

17 A. When a sergeant enters a housing unit, he either
18 writes in a log which needs to be handwritten or
19 now it's computerized when I was there. You
20 would type in how you found the officer's
21 performance, their appearance, the appearance of
22 the housing unit, the overall setting, you know,
23 and that you were there, the time you were there.
24 You make rounds of the unit, then you would

1 leave.

2 Q. Okay. And so that's what the log would entail?

3 A. Right. And if I failed -- they were checking to
4 see if I failed to write anything at all or I
5 failed to go three times a shift. You had a
6 certain amount of time you had to do your rounds.
7 You don't want to go too many because you're
8 harassing the officer and it's affecting how
9 they're doing their job, but you want to go
10 enough to know they're supported and you're
11 checking up on them.

12 Q. How did you come to understand they were checking
13 your logs?

14 A. Besides witnessing it, Maselli going behind me
15 and on the housing unit when he wasn't assigned.
16 Each sergeant was assigned to a certain side of
17 the jail. If I was on the north side and he's on
18 the west side, why is he on the north side? You
19 know, going to my housing unit and looking at the
20 logs, not making an entry.

21 As I said before, Officer Barry McDonald
22 pulled me aside and said, "You're a sergeant,
23 I've been where you've been before. Just be
24 aware that Maselli is going around checking your

1 logs and he stated that he's acting on
2 Patricelli's behalf, that he's working with
3 Patricelli to write you up". And Officer
4 McDonald is a 20-year veteran of the Sheriff's
5 Department.

6 Q. Given the way the deposition was today, we kind
7 of broke up the time increments and the way
8 things happened, so I just would like to ask you
9 in regards to the following around the camera
10 system, did that -- was that -- did that just
11 happen once or twice or was that throughout the
12 period of time that Patricelli was still working
13 at the jail?

14 A. That was a daily occurrence. Any time I worked,
15 Rankin got those phone calls after the thing in
16 October, got worse. There came a time when
17 Patricelli was accused of following not only me
18 but Pat Russo and Lieutenant Karam, that he blew
19 up in Ruth's office and Ruth removed the cameras
20 from Patricelli's office.

21 Q. Okay.

22 A. And then -- and that was -- you want a time
23 frame? That was maybe January.

24 Q. Okay.

1 A. When Ruth was fired, the cameras were placed back
2 into his office, and I know because I put the
3 cameras on the cart, it was part of my job, as
4 opposed to installation. I didn't go into the
5 office to take them out but I put those things on
6 the shelf for Sergeant Dunham. Then, I got a
7 request from Sergeant Dunham to put those
8 computers, that system, because there was only
9 five or six systems that did that, back on the
10 cart and Dunham told me he was reinstalling that
11 into Patricelli's office.

12 Q. How did you become aware that Patricelli was
13 following Russo and others with the cameras?

14 A. Through Ruth Vibert and Sergeant Dunham.

15 Q. Okay. And how did you become aware that you were
16 routinely being followed on camera by Patricelli?

17 A. Through those two same parties, Ruth and Sergeant
18 Dunham and Jeff Rankin.

19 Q. And in regards to showing up at your work site
20 and for unexplained reasons, can you tell us how
21 frequently that happened?

22 A. At least one to three times per shift that I
23 worked.

24 Q. Okay. And what was the time period that this was

1 happening? After -- obviously after October 8th?

2 A. I don't think it happened quite as often in
3 October. It got worse in November, December,
4 January.

5 Q. In regards to whenever he would meet you smiling
6 at you in an awkward way, is that something he
7 would engage in frequently?

8 A. Every time I walked by him at roll call in the
9 cafeteria in the hallway, that was a daily
10 occurrence or multi-daily occurrence, that smile
11 and head shake and it's hard to describe. People
12 say, well, that's just a boy thing but have you
13 ever been eyeballed? They call it hairy eyeball.
14 Have you ever been eyeballed by an inmate or
15 somebody on the street? Have you ever had that
16 experience? It's hard to describe.

17 It's a look of intimidation, it's a look of
18 threat. Somebody might say, well, aren't you
19 interpreting that? I think what they teach you
20 to be a correction officer, you learn from years
21 of reading hundreds of people that come in and
22 out of the jail, you know, what certain faces
23 mean and what certain actions mean. And you
24 know, he had 20 years -- he has over 20 years

1 experience. He knew what he was doing and it was
2 intentional and it was harassing.

3 Q. Okay. All right.

4 A. It was intimidating.

5 Q. I want to stay on the record on this. We had
6 discussed some cases off the record to be when
7 Sheriff Russo (sic) approached you and was
8 talking to you about Ruth Vibert and the
9 possibility that she was discussing Patricelli's
10 personal issues. You've discussed a complaint
11 that you saw.

12 Do you recall that?

13 A. I think what you mean to say is Sheriff Mahar;
14 right?

15 Q. Correct.

16 A. Okay. You said Russo.

17 Q. I'm sorry.

18 A. Sheriff Jack Mahar had me go into his conference
19 room where he referenced a two and a half or
20 three and a half page typed stapled complaint
21 that he said was written by Patricelli involving
22 allegations of Ruth sharing confidential personal
23 information with me.

24 Q. And you understand that that document is

1 different than what's already in evidence as what
2 appears to be a workplace violence complaint or
3 workplace complaint by Patricelli against -- let
4 me back up. Let me strike that. You've answered
5 the question already.

6 Now, John, there came a time in February
7 that you filed a state police report with Trooper
8 Hock with regards to Mr. Patricelli?

9 A. Yes.

10 Q. Okay. And did you come to understand that
11 Patricelli admitted to Trooper Hock that he used
12 his work issue cellphone to contact you?

13 A. Did I learn that from Trooper Hock?

14 Q. Yeah, that he admitted to her that he had used
15 his cellphone, workplace cellphone, to call you?

16 A. I'm not sure of that.

17 Q. Okay.

18 A. I'd have to look at her report. I know he did
19 for a fact because I confirmed it with my sister.

20 Q. Okay.

21 MR. SORSBY: Off the record.

22 (Discussion off the record.)

23 BY MR. SORSBY:

24 Q. Now, John, we discussed earlier the termination

1 of Chief Vibert. Did you understand that she was
2 terminated because she refused to shred your
3 workplace violence complaint and refused to
4 terminate you?

5 A. That's what she told me, yes --

6 Q. Okay.

7 A. -- while I was working at the correctional
8 facility.

9 Q. Okay. Did there come a time in March of 2013
10 when you were contacted by Patricelli in regards
11 to dropping the charges against them? When I say
12 charges, I mean the criminal charges.

13 A. There are phone calls that I don't remember if --
14 I used to remember them. You're asking me in
15 March, did he contact me? At some point, he did
16 approach me and I don't know, if it was via
17 phone, it did take place. It was an issue that
18 he wanted me to drop them.

19 He also did that on a regular basis through
20 my sister. He would have my sister call me and
21 ask me to drop the charges.

22 Q. Okay.

23 A. Again, this was after the February 15th incident,
24 okay, 2013.

1 Q. Okay. Just briefly, there came a time when you
2 actually went to Kathleen Jimino's office to
3 discuss your workplace violence case?

4 A. I went three times.

5 Q. Did you meet with Kathy?

6 A. No. I was always told she was in a meeting or
7 out and I left my name and my phone number with
8 her secretary and I was assured all three times
9 that she or somebody would get back to me to
10 discuss either an appointment or discuss the
11 issue.

12 Q. Okay. And there's some discussion about a
13 Sergeant Walraed, and I can't say his name,
14 Gecewicz, about assigning you to some duties at
15 the jail. Were these duties bad because they
16 were to be assigned to new staff?

17 A. The worst duty you do is a strip search. After
18 every visit, attorney or any visit, a strip
19 search would be conducted. Generally, strip
20 searches were done by either the officer who was
21 assigned to visitation -- any time I was assigned
22 to visitation, I was that officer and I did the
23 strip searches; or they were assigned to new
24 recruits as a training experience. They were

1 never assigned to somebody who had been a
2 sergeant prior, especially.

3 Q. And you were assigned these duties?

4 A. On a regular basis by those individuals.

5 Q. And were you in charge of visitation when you
6 were assigned those?

7 A. No.

8 Q. Okay. And you were certainly not a new employee?

9 A. No. As a matter of fact, the only time I did
10 strip searches is when they assigned them to me.
11 If they weren't working, I didn't do strip
12 searches.

13 Q. This may be self-evident, but you indicated this
14 was the worst duty and it involves, as the term
15 would describe, a complete strip search?

16 A. Yes.

17 Q. Okay. Of male inmates only, to clarify that.

18 Did there come a time that you sent a letter
19 in April to Ms. Jimino advising her about the
20 incomplete investigation of Tom Hendry?

21 A. Yes. I sent her multiple letters.

22 Q. Okay.

23 A. All certified mail.

24 Q. And again, you never received a response from her

1 specifically?

2 A. I never received a response, period.

3 Q. When you say period, from her office?

4 A. From anybody at Rensselaer County, yeah.

5 Q. Okay. Did you have a conversation with Chris
6 Meyer?

7 A. I didn't have -- I've never had a conversation
8 with him. I was just left a voicemail and I
9 returned the voicemail.

10 Q. Okay. Did you understand that there came a time
11 when Chief Vibert had given copies of your
12 complaint to Undersheriff Russo?

13 A. Ruth told me she did on multiple occasions. I
14 also heard her testimony.

15 MR. MARTIN: You're referring to the first
16 workplace violence complaint?

17 A. Yes, the first one.

18 MR. SORSBY: Yes.

19 Q. Did you understand there came a time that your
20 doctor sent a letter to Undersheriff Russo
21 seeking to remove you from working for ongoing
22 emotional distress?

23 A. Are we talking about Dr. Fogel?

24 Q. Thalmann.

1 A. Thalmann, yes. Dr. Fogel initially took me out
2 of work and then the treatment was taken over by
3 Dr. Thalmann.

4 Q. Okay. And he told you that he sent this letter
5 to Undersheriff Russo?

6 A. I believe he sent multiple letters, yes.

7 Q. Okay. When you interacted with Dr. McIntyre, did
8 there come a time when he threatened you with
9 insubordination if you did not -- insubordination
10 resulting in your termination if you didn't
11 provide all the medical documents to him?

12 A. Yes. He told me if I didn't sign the release and
13 I didn't make my doctors turn over every scrap of
14 paper, as he put it, in my medical file that I
15 would be determined to be insubordinate and would
16 be immediately terminated.

17 Q. Do you know what prompted that type of statement?

18 A. Because as I said before, Dr. Thalmann and
19 Camperlengo as a practice, according to them,
20 that it was the law when one doctor requests
21 medical records or anybody that they turn over,
22 you know, typed letters and progress reports and
23 things like that. But they are under no
24 obligation to turn over handwritten notes.

1 Q. Okay. And do you know what, if any, relationship
2 Dr. McIntyre's office has with the Sheriff's
3 office?

4 A. Dr. McIntyre has a contract to do all the new
5 hires for any of the correctional officers or
6 deputies that are hired by the county and, who
7 knows, maybe other people, who knows, maybe other
8 people within the county, but who need to have
9 psychological exams done in order to be hired for
10 their jobs.

11 Q. In the complaint, it's stated -- it says in his
12 report -- referring to Dr. McIntyre's report, it
13 says definitively that he knew the plaintiff's
14 backstory, that he knew things that Defendant
15 Patricelli had done in his past.

16 Did you inform him of the quote-unquote
17 backstory?

18 A. I think what he told me was he didn't need to
19 hear all the details of my situation because he
20 knew the backstory, he got the backstory. And my
21 comment to him was you haven't heard my version
22 of the events that took place. Aren't you here
23 to interview me and hear what happened to me?
24 Not get that information from the Sheriff's

1 Department.

2 Q. And I just want to clear up the record and the
3 complaint, for that matter. The statement that
4 "I already know the backstory, I know the
5 problems with Patricelli in the past", that
6 statement was made to you when you were being
7 interviewed by Dr. McIntyre?

8 A. On October 29th, when I went to see Dr. McIntyre
9 and I took the psychological exams and there was
10 an interview part, that's what he said to me when
11 I wanted to tell him my side of the story, the
12 events that took place that led me to having the
13 illness that I went there for.

14 Q. When he told you he already was aware of the
15 backstory, what, if anything, did you tell him?

16 A. Well, I asked him where he got the backstory
17 from. He said, "Well, I got it from the
18 Sheriff's Department."

19 And I said, well, I thought that was
20 interesting since the Sheriff's Department hadn't
21 done any investigation into workplace violence so
22 how did he get the backstory when they didn't
23 even investigate it?

24 Q. And what did he say to that, if you can recall?

1 A. Nothing. He just didn't say anything that I can
2 recall.

3 Q. Now, there came a time that you -- after the --
4 well, let's back up.

5 There came a time when you applied for
6 Worker's Compensation benefits?

7 A. Yes.

8 Q. Do you recall about what time that was, when that
9 was?

10 A. I don't remember the exact date but...

11 Q. Do you recall being January and May of 2014?
12 Does that seem to --

13 A. Yeah, it wouldn't be May of '14 because -- well,
14 when did they make the decision? June of '14.

15 Q. Correct.

16 A. I would say January would be more like it,
17 because it took them quite a bit of time to come
18 to a determination.

19 Q. Okay. And --

20 A. Not only that, I'm sorry, I applied -- I also
21 attempted to apply for shared disability. At the
22 Sheriff's Department, you don't get New York
23 State long term and short term disability, you
24 can't buy into that.

1 You have two ways of getting disability
2 while you're on the job, 207(c) and what they
3 call shared disability which we pay into every
4 week out of our pay period. I was told by
5 Marcelle I was not eligible for that and denied
6 an application.

7 Q. Who's Mark? Can you just say --

8 A. Marcelle.

9 Q. Swanberry?

10 A. Swanberry, yes. I ultimately was sent an
11 application after I applied for Workman's Comp
12 because they told me, well, you can't have an
13 application because you're no longer eligible
14 because you applied for Workman's Comp benefits.

15 Q. Let's back up. What, if anything, did Marcelle
16 say as to the reason why you're not eligible for
17 the Sheriff's disability?

18 A. She just said I didn't qualify. I had no
19 documentation to explain the program and I wasn't
20 given any when I was hired. I just knew that we
21 paid for that out of our check weekly and that
22 was another benefit option.

23 So I called her, and I don't recall the
24 date, but I asked her for an application and she

1 told me I was -- I didn't need the application
2 because I didn't qualify.

3 And I also called Lieutenant Beaudry and
4 talked to him, because he does the time and
5 benefits at the jail.

6 Q. And so this would have been after the June 24th,
7 2014 Worker's Comp decision?

8 A. No. This was prior to that. It was after I
9 applied for Workman's Comp but not before I got
10 it.

11 Q. Okay. And so you were -- you had also just
12 testified at another point you were told that you
13 should apply for the Sheriff's disability but
14 somebody told you it doesn't matter because you
15 wouldn't be eligible?

16 A. That's what Marcelle told me.

17 Q. When did she tell you that?

18 A. Again, I don't recall.

19 Q. Okay.

20 A. I know I consulted an attorney about the whole
21 thing after-the-fact, but I don't know the exact
22 date of when I talked to her. It was prior to me
23 going to see Johnson to apply for workman's comp.

24 Q. Who's Lemire Johnson?

1 A. Lemire Johnson is the attorneys representing me
2 in the workman's comp case.

3 Q. Did she ever indicate why you weren't eligible
4 for the Sheriff's benefits?

5 A. Again, he gets to decide who's eligible.

6 Q. Who's he?

7 A. The Sheriff, Jack Mahar, gets to decide who's
8 eligible for that.

9 Q. Okay. And did the Worker's Compensation Board
10 ultimately come render a decision in your case?

11 A. Yes. And on June 23rd of 2014, I believe the
12 date is, they ruled that my condition was caused
13 by my employment, specifically by the actions of
14 Anthony Patricelli.

15 Q. Okay. Do you know if this is already in the
16 record, the decision?

17 A. I want to say yes, Pat, but I'm not sure.
18 Patrick. I'm not sure.

19 MR. MARTIN: I don't remember.

20 MR. SORSBY: Would you be willing to just go
21 on the record and say we'll add it?

22 MR. MARTIN: Sure, Exhibit D.

23 A. This isn't the ultimate decision. It's just one
24 of the awards. This is 2015.

1 Q. So it's not talking -- yeah, it's not talking
2 substantively about the law.

3 A. This is the answer to the appeal. They lost --

4 MR. SORSBY: It may actually be in here.

5 A. They lost the initial workman's comp case and
6 then they appealed it and it took another year
7 for the findings to come back.

8 MR. SORSBY: Off the record.

9 (Discussion off the record.)

10 MR. SORSBY: The parties agree at the next
11 scheduled deposition that we will -- that there
12 won't -- we'll enter for admission the decision
13 from the Worker's Compensation Board granting
14 eligibility for Mr. Gorman's workman's
15 compensation benefits.

16 MR. MARTIN: That's the June, 2014 decision,
17 right?

18 MR. SORSBY: As far as -- yes, I think it is,
19 actually, yes.

20 THE WITNESS: You're not looking for the one
21 that they send to the full board where it upholds
22 the decision? Because there was an appeal.
23 You're okay with --

24 MR. MARTIN: That was last month?

1 THE WITNESS: That was May -- no, that was
2 2015 was the first appeal. Then, they appealed
3 not the condition, they appealed the monetary
4 award and that was the one that just happened. So
5 there have been two appeals and two affirms.

6 MR. SORSBY: My sense is that for different
7 reasons, both parties are going to want that in
8 the record for varying reasons, but I think we
9 should get all of it in.

10 THE WITNESS: I thought it was in.

11 MR. SORSBY: It's here. There's a lot of
12 documents, but we will find it.

13 BY MR. SORSBY:

14 Q. I'd like to talk about the due process hearing
15 and Civil Service Law Section 73. From your
16 understanding of that, does the Sheriff have to
17 terminate you if you've been out of work for more
18 than a year?

19 A. My extensive reading of the law and going over it
20 with Mr. Martin or, excuse me, Mr. Ryan was that
21 that is a law that may be enforced, but there's
22 nothing in the wording that says that it has to
23 be.

24 As a matter of fact, we have evidence

1 submitted by Mr. Martin that shows that there are
2 countless employees who have been out since 2010,
3 you know, 2012, you know, one of them has been
4 out since the '80s, that have maintained their
5 employment and not been terminated.

6 Q. Okay.

7 A. An example would be Laura Seabury, Laurie Abbot
8 was also her name, married name. She's been out
9 since 2010 and she has not been terminated.

10 Q. Do you know if -- I don't know the answer to
11 this, but do you know if Anthony Patricelli was
12 out for more than a year?

13 A. I want to -- I don't know the exact date. It
14 certainly was close to a year. He recently was
15 out with a knee injury and received workman's
16 comp without any kind of appeals or fighting.
17 Had knee surgery and went back to work in May.
18 And I believe that he was out for more than a
19 year and he was not terminated.

20 Q. Okay.

21 A. I can give you an example of somebody who was
22 terminated right around the same time I was for
23 one year, after 18 months, requested their job
24 back, was given their job back without taking a

1 civil service exam and kept their seniority back
2 to 1997. That person's name is Chris LaFountain.
3 Again, we have evidence to show that. This
4 recently came from Mr. Martin.

5 Q. Okay. So not only do you believe that the
6 Section 73 was permissive but you're aware of
7 situations where the Sheriff could have but did
8 not terminate people that are out for more than a
9 year?

10 A. I'm not aware of any incidents besides my own
11 where the person was terminated after 12 months.

12 Q. All right.

13 A. At the Sheriff's Department, I should say.

14 Q. Right, to be clear. Just tell us again when you
15 were first diagnosed with PTSD.

16 A. The initial diagnosis was acute stress disorder
17 and depression and anxiety. That is something
18 from my reading and discussing with my doctor
19 that happens to somebody who can be in a car
20 accident out here on Central Avenue, somebody
21 that's exposed to, short term, one incident, and
22 it lasts approximately three months or so. Once
23 my condition lasted an extended amount of time,
24 now, we're talking three years, it was changed to

1 chronic PTSD.

2 Q. Do you know when that change came?

3 A. Probably two years ago.

4 Q. Okay. And when do you believe that the county
5 became first aware of the fact that you had a
6 disability?

7 A. Officially aware of by a doctor, by a trained
8 professional?

9 Q. We can get to that. Is there another way that
10 they might be made aware of the fact that you may
11 have had a disability?

12 A. My application for 207(c) in my mind would say,
13 hey, I have something wrong, I'm having symptoms,
14 this is what's going on, these symptoms related
15 to workplace stress; that, to me, you know,
16 reporting it.

17 Q. That would be the first time in your mind that
18 they would become potentially aware of a
19 disability?

20 A. First time I had anything seriously wrong with
21 me.

22 Q. And before that, just on the timeline, when did
23 you go to St. Peter's Hospital? Was that
24 before --

1 A. July 15 of 2013.

2 Q. Okay.

3 A. So that was before the application. July 18 was
4 the application for 207(c).

5 Q. So shortly thereafter?

6 A. Yes. You have a short period of time, 48 hours,
7 I believe, to apply for 207(c) unless you are,
8 for some reason, physically unable to and then
9 you can request a short-term extension, which is
10 maybe seven days, I'm guessing. I don't remember
11 the exact details, but it's a short period of
12 time, which is why being denied the application
13 was such a stressful point, because if I didn't
14 get it in, I wasn't even going to be eligible.

15 Q. This has been previously marked as an exhibit in
16 deposition, Exhibit C. So again, just to refresh
17 your recollection, this is the memorandum for
18 207(c) and I'm trying to -- one, two, three,
19 four, this is Exhibit A, going back to page two,
20 it says that the -- it says, "Officer John Gorman
21 filed a complaint for benefits to GML 207(c).
22 Attached is exhibit A."

23 So I'm going to go back to exhibit A and
24 just have you take a look at that and tell me

1 when you've had a chance to look at that real
2 quick.

3 A. Okay.

4 Q. Having looked at this, do you recognize your
5 207(c) application?

6 A. Yes.

7 Q. And just tell me again, you may have already
8 answered this, but who was this given to, this
9 application, initially?

10 A. That was turned in by Len Smith and it was given
11 to Hal Smith, I believe on my behalf.

12 Q. Just for the record, can you read your employee
13 statement for us?

14 A. "Officer went to primary care physicians due to
15 stress, pain and elevated blood pressure due to
16 work-related stress related to retaliation from
17 workplace violence complaint and was sent to St.
18 Peter's by ambulance."

19 Q. Okay. Now, you had mentioned that you were at
20 one point diagnosed with chronic stress disorder.
21 Is that the right term?

22 A. Acute stress as part of the three-prong
23 diagnosis, what's called pre-PTSD diagnosis.

24 Q. It says your attending physician was Dr. Fogel at

1 that time?

2 A. Yes.

3 Q. And we talked about it before, still on exhibit
4 A, it appears -- it looks like page five on
5 exhibit A, there's something that says "medical
6 release". Do you recognize this document?

7 A. Yeah. It was part of the application that I was
8 to sign a release for medical documents for the
9 Sheriff's Department. I believe it covers any
10 physician unlimited. It doesn't say it's just
11 for Dr. Fogel or just Dr. Thalmann for this time
12 period. It's open-ended.

13 Q. Okay. We're still in the same exhibit. I'm on
14 exhibit -- when I say exhibit, I mean Plaintiff's
15 Exhibit C. And this is the 207(c) memorandum by
16 Undersheriff Russo. I'm looking at exhibit B of
17 that same document and I'm looking now at page 2.

18 Do you recognize this letter?

19 A. It's from Dr. Thalmann.

20 Q. Okay. And can you tell us who it's addressed to?

21 A. Undersheriff Russo.

22 Q. Okay. Can you just read the letter to us,
23 please?

24 A. "Mr. Gorman continues in therapy. Diagnostic

1 formulation of acute stress disorder and panic
2 disorder." I forgot about that one.

3 Q. And tell us the date on that.

4 A. It's August 21st, 2013.

5 Q. Okay. Is this the acute distress disorder you
6 were discussing earlier?

7 A. Yes.

8 Q. Okay. I'm just curious if you could help us. Do
9 you recognize -- there seems to be -- there
10 appears to be numbers at the top. Do you
11 recognize -- I'm just asking, and you may not,
12 but do you recognize that as the fax number to
13 the county jail?

14 A. I believe so.

15 Q. Okay.

16 A. I believe it's Marcelle's fax number.

17 Q. Okay. And do you recognize the fax number for
18 your Dr. Thalmann?

19 A. Yes.

20 Q. Just read that real quick.

21 A. Read the number?

22 Q. Yes, please.

23 A. 518-689-1385.

24 Q. Okay. Excellent. Do you have any independent

1 knowledge that this letter was sent to
2 Undersheriff Russo other than looking at this
3 letter?

4 A. Independent knowledge, no.

5 Q. Okay. I'm just going to turn -- I'm still on
6 that same section, exhibit B again, page 1, page
7 2, 3, now we're on page 4. Can you just read the
8 letter, please?

9 A. "John Gorman, age 43, was seen for psychological
10 testing and psychotherapy. He currently has
11 significant distress, depression, anxiety
12 symptoms such that he needs continued sick leave
13 from work."

14 Q. All right. What's the date on that letter?

15 A. August 19 of 2013.

16 Q. Okay. And can you tell us who that letter is to?

17 A. Undersheriff Russo.

18 Q. You know that by reading the document?

19 A. That is correct.

20 Q. All right. And at the top, there may be a
21 clearer fax number this time. Do you see where
22 it says "to"?

23 A. Yes. It says 270-5447.

24 Q. What do you understand that to be a fax number

1 to? Where do you understand that to be going?

2 A. I believe that's Marcelle's fax number.

3 Q. Okay.

4 A. These letters, I believe, were not requested by
5 me.

6 Q. Who were they requested by?

7 A. They were obtained by the Sheriff's Department,
8 I'm assuming Mr. Russo, assuming Undersheriff
9 Russo, since that's the address because of the
10 medical disclosure form. I didn't call up Dr.
11 Thalmann and say, hey, can you send in --

12 Q. -- these documents?

13 A. Right.

14 Q. Okay.

15 A. Can I say something?

16 Q. Go ahead.

17 A. My same point I made before is that if they're
18 requesting records in August and they didn't make
19 their decision until January of 2015 -- excuse
20 me, January 15th of 2013, why didn't they
21 continue to ask for medical records? Why did
22 they only do it for, you know, the 21st, the 19th
23 and the 1st of August and then that's it?

24 Q. So all of these requests for medical

1 documentation you're saying came -- you're asking
2 why did it come before or after?

3 A. No. They're just from August, but they have
4 September, October, November, December, and half
5 of January before they made their decision. But
6 they stopped asking for any medical updates.

7 Q. Okay.

8 A. If you're going to make a fair assessment of
9 somebody's condition and whether or not they're
10 qualified for 207(c), why didn't you seek medical
11 documentation for the rest of those four and a
12 half months when you did it for the first month?

13 Q. Okay.

14 A. So was the decision really made in August and all
15 they were waiting for was Dr. McIntyre's reports
16 or, according to this, it was made January 15th
17 of 2014.

18 Q. Well, let's -- staying on that same line of
19 discussion, let's just go over one thing. I'm on
20 page 6 now of exhibit B. We've been talking
21 about exhibit B for a while here. I'm going to
22 read from the actual document this time.

23 "It is understood that Mr. Gorman has worked
24 for Rensselaer County Sheriff's Department for

1 the past six years as a correction officer. He
2 relates work stress issues resulting in
3 significant anxiety and depression. He's been
4 out of work from July 15, 2013 at which time he
5 notes he was briefly admitted to St. Peter's
6 Hospital. At this time, due to the level of
7 ongoing stress, it is recommended that he
8 continue to remain on sick leave beyond the
9 anticipated work date of August 3rd, 2013. It is
10 undetermined as to his return to work date."

11 What does that mean? Was there a return to
12 work date of August 3rd that you were expected to
13 be back?

14 A. When the treatment was -- and I believe it's in
15 here under Dr. Fogel's guidance. He had said the
16 return date would be August 3rd. When I sought
17 further when I was -- when it was determined it
18 was a psychological issue, then I started
19 treatment with Dr. Thalmann and this is his first
20 letter that he's written, August 1st, 2013. He
21 determined that I couldn't return at that date
22 and wrote that it was undetermined.

23 Q. Okay. And so you're saying it's your
24 understanding that they never -- the county never

1 inquired again as to whether or not -- whether or
2 not that had changed that your work date was
3 undetermined, the date that you could return?

4 A. If this evidence is all the evidence they
5 examined to determine my 207(c), the last
6 doctor's note that they obtained from Dr.
7 Thalmann on their request was from August 21st.
8 They didn't make the decision until January 15th
9 of 2015.

10 My question or my big thought is why didn't
11 they ask for monthly or biweekly updates from Dr.
12 Thalmann to figure out how I'm doing?

13 Q. Before they made their final determination?

14 A. Before they made their final determination.

15 Q. Right. To at least have up-to-date information,
16 right, okay.

17 All right. Now, a little earlier, we looked
18 at a letter, June, 2014 from, I believe it was,
19 the Sheriff indicating that you were going to be
20 terminated on August 15th if you didn't ask for a
21 probation period hearing?

22 A. I believe it was July 15th.

23 Q. July 15th, okay. Now, accompanied with that
24 letter, did you receive any inquiry as to your

1 medical status at that point?

2 A. No.

3 Q. Okay. Did you receive any request for
4 independent medical evaluation at that point?

5 A. No.

6 Q. Okay. And at the due process hearing that you
7 ultimately went to, was there an inquiry as to
8 your medical condition at that point?

9 A. They asked me if I could return to work. That's
10 what they asked me.

11 Q. Okay. And what did you tell them?

12 A. No because of my current medical condition.

13 Q. Okay. And did they inquire about what your
14 medical condition was?

15 A. No.

16 Q. Okay.

17 A. I think they may have asked me was I able to
18 perform my job duties.

19 Q. Did there come a time that they mentioned --
20 excuse me.

21 Did there come a time when they inquired as
22 to whether or not you could fulfill your job with
23 an accommodation?

24 A. No.

1 Q. Were you aware at that time of positions
2 available at the correctional facility that
3 people could perform when they had a disability?

4 A. They call them light duty details.

5 Q. And you used the plural form of that word. Was
6 there more than one position?

7 A. Two clear ones that were regularly used were
8 visitation control or control, which is basically
9 sitting in a chair and pushing buttons to open
10 doors. Those are the very two common ones that
11 were used.

12 Q. What is visitation control?

13 A. Visitation control is you're out in the lobby and
14 you control the attorneys coming in. Anybody who
15 comes to the window, you ask a question or you
16 check in visitors, things like that. You don't
17 leave the control room.

18 Q. Okay. You said visitation control and control
19 are two different things?

20 A. Yes, two different things.

21 Q. What's control?

22 A. Control is two people sitting in a room smaller
23 than this with two huge computers, 40-inch
24 computer screens, sitting in front of them and

1 all they do is push buttons to open the doors
2 when officers or inmates who are supposed to be
3 going somewhere need to go.

4 Q. And are these positions -- are they positions
5 that correctional officers normally perform?

6 A. Yes.

7 Q. All right. And now, how do you know that they
8 are utilized for individuals that are somehow
9 injured?

10 A. A guy named Teddy, last name's not coming to me,
11 but he hurt his leg, received 207(c) for a short
12 period of time and then came back on light duty.

13 Q. Okay.

14 A. He was in visitation control for at least the
15 first two years I worked at the jail.

16 Q. Okay.

17 A. And then he requested regular full-time duty
18 because he wanted to get overtime and when you're
19 on light duty, you're not eligible for overtime.

20 Q. How did you come to understand that he was on
21 light duty?

22 A. It was common knowledge, because you couldn't
23 bump him off of his -- if you had more seniority
24 than he did, you couldn't bump him off his duty

1 detail because it was light duty assigned.

2 Q. How did you know that?

3 A. It was just announced at roll call. It was
4 general practice; everybody knew.

5 Q. Do you know of another person that was in that
6 light duty position?

7 A. There have been many people. I can't think of
8 all the names, I think of first names, I don't
9 know all their last names, where they did light
10 duty, where they fell, they were in a motorcycle
11 accident that was unrelated to work but they had
12 an injury to their knee and they worked in
13 control for a period of six months or three
14 months or six months until they were healed.

15 Q. And why was control and visitation control a job
16 that could be utilized for an accommodation?
17 What was different about that compared to the
18 other jobs?

19 A. Well, you have no exposure to inmates and you
20 don't respond to codes.

21 Q. Okay.

22 A. And you have very limited staff interaction
23 because control and visitation control are not
24 somewhere that staff can walk in and out; only

1 authorized personnel. So it's a very controlled
2 environment.

3 Q. Okay. And do you know what qualifications for
4 those two positions are, positions in those
5 sections are?

6 A. Regular basis or as a light duty position?

7 Q. Okay. Well, let me ask a different question.
8 Are there regular based positions in control and
9 visitation control in addition to the light duty
10 positions?

11 A. If they're in the light duties, regular officers
12 are rotated in and out of there. At the time
13 Ruth Vibert was terminated, I was assigned to
14 visitation control. That was my detail for a
15 five-week rotation.

16 Q. What I would like to know is if there is already
17 somebody in visitation rotation, then somebody
18 becomes disabled, are they not overstaffed in
19 those departments?

20 A. What I know, the six years I worked at the jail,
21 it's never fully staffed. Somebody always
22 resigns. There's always an open position. So
23 those people could easily be utilized in another
24 area, then there wouldn't be overtime.

1 Now, say the Teddy guy was assigned to C
2 line as a regular officer and he had to have
3 light duty on B line, that would make C line
4 short one person theoretically. When you're a
5 new officer, you can't bid so they can move you
6 with no notice.

7 So they could take somebody from -- a new
8 officer within the first year of your employment
9 and move you from B line to C line to cover his
10 position without any hardship of overtime.

11 Does that make sense?

12 Q. It does. So if somebody had a disability, are
13 you saying that the staffing demands were
14 flexible enough that somebody with a disability
15 could be put into control even if there were
16 other staff occupying --

17 A. In my opinion, yes, because it takes four
18 officers, two officers on B line, two officers on
19 C line for control and one for A line for control
20 and one for B line and one for C line. So you
21 have a lot of flexibility because you can move
22 people around.

23 Q. What does control do?

24 A. Control is two people who control all the doors

1 in the facility to let people in and out.

2 Q. For the B line, C line, A line?

3 A. And A line. Visitation control is just that,
4 visitors. During the day, checking in attorneys
5 and visitors and afternoon shift, C line --

6 Q. How many people are normally in visitation
7 control?

8 A. That control, one.

9 Q. For visitation?

10 A. For visitation, yes.

11 Q. And do you feel that you were qualified for those
12 positions?

13 A. I was certainly qualified. I worked as a normal
14 officer, you know, prior to my disability in
15 those positions.

16 Q. What do you understand that the qualifications
17 were for those positions?

18 A. You're breathing and you can push the buttons.

19 Q. And going back to when you went out on leave
20 after you went to St. Peter's Hospital and you
21 were out of work, do you know if there was
22 anybody on light duty in those positions?

23 A. I don't know off the top of my head, but the
24 evidence that I talked about before that Mr.

1 Martin recently submitted, which is their monthly
2 log entries to New York State Corrections, state
3 there who's on 207(c), who's on, you know, sick
4 leave. So there are a number of people that are
5 on 207(c) or could be on light duty at any given
6 time.

7 Q. All right. One final question on this point.
8 When you were terminated, now we're talking
9 October now, are you -- 2014, right? October,
10 2014? Are you aware --

11 A. No. I believe that's '15.

12 Q. '15 ultimately, all right.

13 A. They didn't make the decision until January of
14 '15.

15 Q. I think it was that October, I think.

16 A. Was it October, 2014? Sorry. It's hard to --

17 Q. We'll just say the ultimate determination I
18 thought was '14.

19 MR. MARTIN: '14. I think it is '14. Yeah,
20 I think it's '14.

21 Q. When you were terminated in October of 2014, at
22 that time, were you aware of anybody -- were you
23 aware of any staff that were on light duty at the
24 jail?

1 A. I hadn't been there since July, so I can't answer
2 that question.

3 Q. All right. Now, John, do you know if the
4 position that -- the position you were in, do you
5 know that if it could have been -- are you aware
6 that -- do you know if it could have been altered
7 in some way so that you can continue to work in
8 that position?

9 A. I do know before I was promoted to provisional
10 sergeant, I served in a capacity of writing
11 policies and editing policies to get it ready for
12 accreditation. The ultimate goal was the Sheriff
13 wanted to have the facility accredited. You
14 didn't respond to codes, you have no access to
15 inmates.

16 It was just another one of those things that
17 could have been utilized for light duty. Just
18 sat in the office. And Sergeant Dunham was in
19 charge. Aaron Simard also, Kathy Jimino's
20 son-in-law also worked in that capacity. He was
21 made provisional sergeant the same time I was.
22 Certainly, the Sheriff controls budgetary and
23 what positions he utilizes, he could have made
24 that available again since I was in that position

1 for over two years.

2 Q. Which position?

3 A. The transition team. You know, once the
4 construction was done, we were doing -- I was in
5 keys, I was in computers and I was writing
6 policies, things like that. I didn't work as a
7 normal correction officer.

8 Q. Okay. And just also additionally, as of the time
9 you were terminated, you had already been
10 diagnosed with PTSD; correct?

11 A. Correct.

12 Q. Okay. And with that diagnosis, as I understand
13 it, Dr. Thalmann indicates you can still perform
14 some work, correct, under the right conditions?

15 A. I believe he was willing to say that I could go
16 back to the correctional facility with a
17 particular accommodation if they were willing to
18 discuss an accommodation, but they were never
19 willing to discuss an accommodation.

20 Q. Okay.

21 A. So he ultimately -- when they said you can only
22 come back if you prove that you have nothing
23 wrong with you, he ultimately determined that he
24 felt that I was a hundred percent disabled from

1 going back as a normal correction officer.

2 Q. So you had a conversation with Dr. Thalmann
3 around about the time that you received the
4 letter from the Civil Service Commission?

5 A. Yeah. I always talked about Dr. Thalmann,
6 because my ultimate goal was to go back to that
7 career, because I enjoyed my job. It's probably
8 a weird thing to say I enjoyed a job at the
9 correctional facility, but it was a rewarding job
10 and I ultimately wanted to go back.

11 Q. Just to be clear, in talking to Dr. Thalmann,
12 after you received a letter from the Civil
13 Service Commission requesting a medical
14 evaluation before you came back, he indicated you
15 could go back with an appropriate accommodation.
16 Did he say what the accommodation was?

17 A. He didn't say what it was, because we didn't know
18 what the parameters would be, so if he could
19 examine what it would be that I was doing or if
20 they were willing to try a particular
21 accommodation and we could evaluate as we went.
22 You know, I told Tom Hendry when I met with him,
23 I told the Commission, I've always said my goal
24 is not to sue anybody, my goal was to go back to

1 work.

2 Q. Okay.

3 A. To get better and go back to work.

4 Q. Okay. And just to clarify, in the time -- in all
5 of this time, has there ever been a discussion or
6 inquiry by a representative of the county in
7 regards to how they might be able to provide an
8 accommodation for you to come back to work?

9 A. The only communication I had was after the
10 determination by the Sheriff's Department, it was
11 with the Civil Service Commission.

12 Q. And again, nobody from the county has ever
13 inquired of you as to what accommodation would be
14 necessary for you to come back to work?

15 A. No.

16 Q. Okay. Let's take a two-minute break. I think
17 we're done.

18 (A short break was taken.)

19 B MR. SORSBY:

20 Q. All right. John, we're looking at Plaintiff's
21 Exhibit 18. I'm just going to read a portion of
22 it to you, the second page. It says that
23 "Therefore, we --" this is the second paragraph.
24 "Therefore, we are unable to place you on the

1 preferred list until you submit correspondence
2 requesting reinstatement to your former
3 position."

4 Did you send correspondence requesting -- I
5 think we discussed that earlier.

6 A. Yeah, I sent multiple correspondence to the
7 Rensselaer County Civil Service Commission, the
8 first one being to have my one-year leave
9 extended per Civil Service Law. They denied that
10 in the letter that you have in there. And then
11 this one is asking to be reinstated.

12 Q. And did you request reinstatement?

13 A. Yes.

14 Q. And the letter goes on to say, "Once your request
15 is received, we will then send you for a medical
16 examination."

17 Were you sent for a medical examination?

18 A. No. I sent a letter requesting a medical
19 examination. I also sent in that letter
20 requesting an accommodation and then I was sent
21 another letter.

22 Q. "If deemed eligible by the medical examiner, you
23 may return to your former position or similar
24 position, if available. If no position is

1 available, your name will then be placed on a
2 preferred list."

3 Were you ever placed on a preferred list?

4 A. No.

5 Q. Okay. I just turned the page, Exhibit 17 --
6 wait. Let me back up. Exhibit 18. What's the
7 date on the top of that?

8 A. July 13th of 2015.

9 Q. All right. We're now looking at Exhibit 17.
10 What's the date on that?

11 A. August 17th of 2015.

12 Q. Okay. It says, "Dear Mr. Gorman, after reviewing
13 your correspondence dated July 27, 2015, the
14 Rensselaer County Civil Service Commission
15 requests that you submit evidence that your
16 disability was terminated and the effective date
17 of this termination. Upon satisfactory proof of
18 this evidence, a medical examination will be
19 scheduled for you at the time to be determined by
20 this office. Also, please submit a medical
21 release to return to work without restriction for
22 your position."

23 Did you give this letter to Dr. Thalmann?

24 Did you show this letter to Dr. Thalmann?

1 A. I made a copy and we talked about it.

2 Q. What did you do with this letter? How did you
3 respond, if at all?

4 A. I don't believe I responded. I believe I gave it
5 to Dr. Thalmann and I gave it to you for review.

6 Q. Okay.

7 A. I don't know how I could respond to that, because
8 my disability is not terminated and I'm not sure
9 how I can have it terminated other than getting
10 better.

11 Q. Okay.

12 A. And getting better is going to be a slow process,
13 which is why I asked for an accommodation which
14 was --

15 Q. Which was the original letter?

16 A. The original letter was if you want a medical
17 examination, send us a request and we'll give you
18 a medical examination.

19 Now, they're saying we're not going to send
20 you for a medical examination until you show us
21 your disability has been terminated. Well,
22 you're not evaluating, so how do you know if my
23 disability's still there or not? They offered
24 something and then they took it away.

1 Q. Okay.

2 A. It's not like I'm choosing to have a disability.

3 MR. SORSBY: Mr. Martin, we're going to try
4 to locate John's letter to the Civil Service
5 Commission.

6 MR. MARTIN: July 27 letter?

7 MR. SORSBY: Yeah. We'll disclose that --

8 A. You already do have it. I submitted all of that
9 stuff.

10 Q. Oh, it's in there?

11 A. I will be happy to have it for the next time,
12 deposition, if you guys are okay with that. I
13 can go out to the car and get it out of the
14 trunk. We have everything in a folder but it
15 will be easy to obtain.

16 MR. MARTIN: I would like to see it,
17 actually.

18 (A short break was taken.)

19 (Defendant's Exhibits D through J,
20 respectively, were pre-marked for identification.)

21 MR. SORSBY: Back on the record.

22 BY MR. SORSBY:

23 Q. I'm handing you what's been marked as Exhibit D.
24 Do you recognize this document?

1 A. Yes. It's the June 24th, 2014 Workman's Comp
2 determination.

3 Q. And I'm going to hand you what's been marked
4 Exhibit E. Do you recognize this document?

5 A. Yes. This is the full board panel decision in
6 the appeal of the 2014 decision and it's dated
7 May 26th, 2015 for workman's comp.

8 Q. Okay. I'm going to hand you what's been marked
9 as Exhibit F. Tell us the date -- well, first of
10 all, do you recognize this document?

11 A. Yes. It's the letter I wrote to the Rensselaer
12 County Civil Service Commission board on October
13 14th of 2014.

14 Q. Tell us how many pages it is.

15 A. It is three pages and a quarter.

16 Q. Okay. Exhibit G, do you recognize this document?

17 A. Yes. It's a letter to the Rensselaer County
18 Civil Service Commission dated December 12th of
19 2014 and it's one page.

20 Q. Let's look at --

21 A. And I'm requesting a second review of my
22 termination by the Sheriff's Department. The
23 first one, exhibit --

24 Q. We'll go into depth on some of them once we get

1 them all in.

2 I'm going to show you what's been marked as
3 Exhibit H. Do you recognize this?

4 A. This is a letter to Rensselaer County Civil
5 Service Commission board from me dated May 11,
6 2015.

7 Q. Okay. And do you recognize, finally, Exhibit I?

8 A. Yes. It's another letter to Rensselaer County
9 Civil Service Commission board dated July 27,
10 2015 from me.

11 Q. And then, finally, Exhibit J.

12 A. This is a letter to Rensselaer County Civil
13 Service board dated August 26th of 2015 from me.

14 Q. Okay. So we'll just ask you a few questions
15 about that and then we'll proceed from there.

16 A. And all those letters were sent certified mail
17 through the United States Post Office.

18 Q. When you say all those letters, are you
19 referencing what's been marked as Exhibits F, G,
20 H, I, J?

21 A. Yes.

22 Q. All right. You sent all those registered mail?

23 A. Yes.

24 Q. Okay. Looking at Exhibit F, without reading the

1 whole thing, can you just tell in sum or
2 substance what this letter's about?

3 A. Yes. This letter is a formal request for review
4 under rule, whatever that is, leave of absence
5 Section 2 of my recent termination from
6 Rensselaer County Sheriff's Department.

7 Q. Can you just take a quick look at Exhibit G? Can
8 you tell us what this letter in form or substance
9 is about?

10 A. Second formal request for an opportunity to
11 present to the Civil Service board in person the
12 facts that have led to my wrongful termination by
13 Jack Mahar.

14 Q. Okay. Can you tell us what this document is
15 about, Exhibit H?

16 A. It states: "To date, I have not received a
17 decision from the Commission about my unlawful
18 termination. I once again request that
19 Rensselaer County Civil Service Commission uphold
20 their obligation and share the people who are
21 hired and/or terminated by the county --" so it's
22 a request for a response.

23 Q. I'm going to hand you Exhibit I. Tell us the
24 date on that.

1 A. This is dated July 27th of 2015.

2 Q. Okay. And again, all these exhibits we've been
3 talking about, they're addressed to the Civil
4 Service Commission?

5 A. To the Civil Service Commission of Rensselaer
6 County and they go on to name the board members.

7 Q. All right. And Exhibit I that we're talking
8 about now, in form or substance, what is this
9 letter about?

10 A. It says, "Dear Civil Service Commission, as
11 you're aware, and as I stated in my previous
12 letter, the New York State Worker's Compensation
13 Board has determined that my injury is work
14 related and that determination was given prior to
15 my notice of termination.

16 "The County was aware of this decision
17 before the so called due process hearing in July,
18 2014. Therefore, the underlying premise of the
19 County's decision to terminate my employment
20 under Section 73 is factually and legally
21 incorrect.

22 "Fortunately, the Committee has oversight
23 and the County's decision wasn't final until the
24 rendering of your current decision."

1 Q. Okay.

2 A. And I request -- I'm exercising my right to
3 formally request a further review.

4 Q. Okay.

5 A. I also go on to ask -- because we were talking
6 about the letters earlier, I go on to ask for a
7 formal request of my reinstatement with an
8 accommodation of past or medical evaluation by an
9 independent examiner. So this is the letter
10 where I ask for the reinstatement and an
11 accommodation, which is what we were talking
12 about before.

13 Q. Can you read that part where it says that?

14 A. It says, "As per your prior letter, I am
15 exercising my rights to formally request my
16 reinstatement with an accommodation after a
17 medical evaluation by an independent examiner."

18 Q. Okay. And when you say as per your prior letter,
19 what are you referencing? The documents we were
20 talking just before the --

21 A. We went over document number 18, number 17 where
22 they say that I can ask for reinstatement.

23 Q. Okay.

24 A. And I can also ask for -- once I ask for

1 reinstatement, I can be sent for a medical
2 evaluation.

3 Q. And so you're saying that Exhibit I is a response
4 to that?

5 A. Yes.

6 Q. Okay. Let's take a look at Exhibit J. Can you
7 tell us the date on that?

8 A. This is the date, August 26th, where I previously
9 testified that I hadn't responded to their letter
10 where they tell me I have to provide
11 documentation that my disability has been
12 terminated.

13 Q. Okay.

14 A. I don't remember if it was 8/17 or 18.

15 Q. But it was a document we were reviewing earlier?

16 A. Yeah. You asked me if I made a response. I
17 believe I said no but, apparently, after
18 reviewing the documents, I did respond.

19 Q. Can you tell us -- why don't you go ahead and
20 read the letter to us real quick?

21 A. It says, "Dear Commission members, I am in
22 receipt of your response to my request for an
23 accommodation dated August 17. Rather than
24 provide accommodation...disability

1 discrimination...you have requested that I prove
2 my disability has ended. I cannot offer this
3 proof, because my letter clearly indicated my
4 disability has not ended. In my letter, I
5 request the resubmission of my employment with an
6 accommodation. I understand no basis under which
7 you can request that I prove that my disability
8 has ended before you provide an accommodation.
9 Please be advised as to -- please advise me as to
10 your legal basis for requiring that I prove my
11 disability has ended before you provide an
12 accommodation."

13 Q. And did you receive a response to this letter?

14 A. I'm going to say no, I never received a response
15 to that letter.

16 Q. Okay. And just so we're clear, this letter dated
17 August 26th, which is now Exhibit J, I'm going to
18 show you again what's been marked as Exhibit 17
19 in a prior deposition. We were looking at this
20 earlier. It's dated August 17th. Do you see
21 this letter?

22 A. Yes.

23 Q. Do you see Exhibit 17?

24 A. Yes.

1 Q. Are you saying that Exhibit J is in response to
2 Exhibit 17?

3 A. Yes. And the first sentence says it is in
4 response to your request for an accommodation
5 dated August 17, 2015. So it's in response to
6 the letter, it states that.

7 Q. Just briefly going back again to I, the date on
8 Exhibit I, what's the date on that?

9 A. July 27, 2015.

10 Q. Okay. And is Exhibit I a letter you wrote in
11 response to what's been marked as Plaintiff's
12 Exhibit 18?

13 A. Yes.

14 Q. Okay.

15 A. Where it says if I want to be reinstated, I need
16 to make that request and I'll be sent for a
17 medical evaluation.

18 Q. Okay.

19 (Defendant's Exhibit K was marked for
20 identification.)

21 BY MR. SORSBY:

22 Q. Mr. Gorman, I'm going to hand you what's been
23 marked as Exhibit K. Can you tell us what you
24 understand this document to be?

1 A. This document is basically Dr. McIntyre's
2 evaluation. And in this document, as I said
3 previous, I recorded both sessions, the October
4 29th and December 12th interviews with Dr.
5 McIntyre. I had those recordings transcribed.

6 Q. Okay.

7 A. Not by a licensed official --

8 Q. Transcriptionist?

9 A. -- stenographer but actually by somebody who
10 works in the medical -- they transcribe medical
11 stuff. So they're experienced.

12 Q. Okay.

13 A. So I put in there, it says recording date, time
14 stamp, so the time of the recording and pieces of
15 evidence or things that I say that Mr. -- that
16 Dr. McIntyre left out and those are in red. The
17 items that are in green are listed under records.
18 The black items, black print items, Dr. McIntyre
19 looked at.

20 The items in green are all items that were
21 available and were in the possession of the
22 Sheriff's Department and have further been turned
23 over during this proceeding as evidence that they
24 did have them. So they were available at the

1 time of the evaluation and weren't reviewed by
2 Dr. McIntyre.

3 Q. All right. I'm just going to ask you some
4 questions about these real quick. And the one
5 thing that I'm interested in is I'm looking at
6 the second page of this, and there's quite a bit
7 of documents that are in green. You're saying
8 that indicates that these documents were not
9 reviewed by Dr. McIntyre?

10 A. Well, Dr. McIntyre in his first page of report
11 put in their records, so they're records that he
12 reviewed.

13 Q. Are you saying the report we already marked --
14 entered into the record, marked for evidence,
15 indicates what records he based his decision on?

16 A. In his psychological evaluation, at the end of
17 the 207(c) determination, it's his report. And
18 on the first page, it has clinical review and
19 then records, and he lists the records that he
20 reviewed to make his determination.

21 Q. And none of these documents in the green were
22 listed on there; correct?

23 A. That is correct.

24 Q. How is it you know that these documents -- I

1 won't have you read every one, but how do you
2 know that these documents were available to Dr.
3 McIntyre?

4 A. Well, I'm assuming he's representing Rensselaer
5 County and if he had questions on what the
6 Rensselaer County Workplace Violence Prevention
7 Policy was, he would ask. New York State Labor
8 Department's formal statement dated September
9 6th, that's their finding, he would have access
10 to that.

11 Human resources, Tom Hendry's letter dated
12 August 21st, 2013, if he's going to interview me,
13 hear all the facts and then evaluate whether or
14 not I'm truthful or not, which is what he did,
15 whether my testimony is credible, he might want
16 to ask for documentation.

17 And all of these are things that -- letters
18 to Kathy Jimino dated April 8, 2013, Mr. Martin
19 asked me earlier about that document, the letter
20 of complaint to New York State Labor Department,
21 March 31st 2013, they're all things that I told
22 him I provided and were provided to the county
23 and could have been provided prior to the
24 evaluation that could have been provided to Dr.

1 McIntyre to make a full and unbiased evaluation
2 of my events leading up to my illness.

3 Q. All right.

4 MR. SORSBY: Now, Mr. Martin, I want to
5 introduce the -- you recall the 50-H hearing in
6 this matter?

7 MR. MARTIN: Yes.

8 MR. SORSBY: I'd like to have it marked as an
9 exhibit so we would make it Exhibit L.

10 THE WITNESS: This is not the 50-H. This is
11 the arbitration, the testimony, the 207(c).

12 MR. SORSBY: We've got this incorrectly
13 labeled. I'm sorry. Here's the transcript from
14 the worker's comp hearing. At this point, we'll
15 get this marked. I'd like to have this marked
16 as --

17 MR. MARTIN: M.

18 MR. SORSBY: L, wouldn't it?

19 MR. MARTIN: I thought we were going to do
20 the 50-H.

21 MR. SORSBY: I gotta figure that out. I
22 gotta find the transcript.

23 THE WITNESS: You mean 50-H. You have the
24 207(c) transcript in your hand.

1 MR. MARTIN: We can get it later.

2 MR. SORSBY: You're not going to have a
3 problem with it? So M would be -- what is that?
4 Worker's comp --

5 THE WITNESS: Workman's comp transcript of
6 the witnesses.

7 MR. SORSBY: So we've got L for the worker's
8 comp or the --

9 MR. MARTIN: 50-H.

10 MR. SORSBY: 50-H. Then, M for worker's
11 comp. And then we'll make N for the transcript
12 from the 207(c).

13 MR. SORSBY: And that's it for me.

14 (WHEREUPON, at 5:32 p.m., the examination of
15 JOHN GORMAN in the above-entitled matter was
16 concluded.)

17 * * * * *

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20 (To be marked.)21 Exhibit N 207(c) transcript 245
22 (To be marked.)

23 (Exhibits Were Not Provided to the Court Reporter.)

24 (They were retained by counsel for the Plaintiff.)

1 STATE OF NEW YORK

2 COUNTY OF

3
4 I have read the foregoing record of my testimony taken at
5 the time and place noted in the heading hereof and I do
6 hereby acknowledge it to be a true and correct transcript
7 of the same.

8
9
10 _____
11 JOHN GORMAN
12

13 Sworn to before me this

14 day of , 2016.

15
16
17 _____
18 Notary Public
19
20
21
22
23
24

C E R T I F I C A T I O N

I, **THERESA L. KLOS**, a Shorthand Reporter and Notary Public within and for the State of New York, do hereby CERTIFY that prior to being examined, the witness named in the foregoing deposition was duly sworn to testify the truth, the whole truth and nothing but the truth.

That said deposition was taken down by me in shorthand at the time and place therein named and thereafter reduced by me to typewritten form and that the same is a true, correct and complete transcript of said proceedings.

Before completion of the deposition, review of the transcript was requested. If requested, any changes made by the deponent (and provided to the reporter) during the period allowed are appended hereto.

I further certify that I am not interested in the outcome of this matter.

Witness my hand this _____ day of _____, 2016.

THERESA L. KLOS, CSR, RMR

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